

The Rajasthan Panchayati Raj Laws - 1955

A COMPILATION OF
The Rajasthan Panchayat Act, 1953
The Rajasthan Panchayat Samitis and
Zila Parishads Act, 1959

(AS AMENDED UP TO DATE)

With

ALL RULES PERTAINING TO ELECTIONS,
CO-OPTIONS, ELECTION PETITIONS,
NO-CONFIDENCE MOTION ETC.,

OF

PANCHAYATS, NYAYA PANCHAYATS, PANCHAYAT
SAMITIS & ZILA PARISHADS ETC.,

WITH

UPTO DATE AMENDMENTS

and

DETAILED COMMENTARIES BASED ON
THE LATEST CASE LAW.

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INTRODUCTION

A part of this Volume was originally published under the title "The Rajasthan Panchayati Raj Election Law, 1964" on the eve of the Panchayat General Elections, 1964.

During the Elections, lot of amendments took place in the Rules and in the Provisions of the Rajasthan Panchayat Act, 1953 contained therein. Besides, some new rules were also made by the Government. To make the book useful for all those interested in the efficient functioning of the Panchayats, Panchayat Samitis and Zila Parishads, we have added the Rajasthan Panchayat Act, 1953 (Act XXI of 1953) and the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act XXXVII of 1959) as amended upto-date in the beginning of this volume and have divided it in the following different Sections as under:—

1. Section I—The Rajasthan Panchayat Act, 1953 as amended upto-date by fourteen Amending Acts.
2. Section II—The Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 as amended by ten Amending Measures.
3. Section III—The Rajasthan Panchayat and Nyaya Panchayat Election Rules, 1960
4. Section IV—The Provisions of the Rajasthan Panchayat Act, 1953 pertaining to elections.
5. Section V—The Elections, Co-options and Allied Rules under the Rajasthan Panchayat Samitis and Zila Parishads Act, 1953.
6. Section VI—The provisions of the Panchayat Samitis and Zila Parishads Act, 1959 pertaining to elections

It is also proposed to publish the Rajasthan Panchayat and Nyaya Panchayat General Rules, 1960 and the different Rules under the Panchayat Samitis Act, 1959 (other than those pertaining to Elections, Co-options etc. which have been incorporated in this Volume) in the second Volume of this publication which will come out shortly. The two Volumes together will give the entire law on the Panchayats, Panchayat Samitis and Zila Parishads of the State with latest amendments. We hope these two Volumes will serve the Panchayati Raj Institutions and those interested in the efficient functioning of the Panchayati Raj in this State in a small measure and if this is done, we shall feel our humble effort amply rewarded.

AUTHORS

Jaipur, 5th March, 1965.

The Rajasthan Panchayati Raj

Laws - 1965

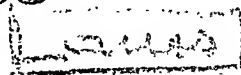


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Section I

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(Act xxi of 1953)
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**List of Legislative measures (Acts & Ordinances)
Affecting The Rajasthan Panchayat Act, 1953**

(Rajasthan Act No. XXI of 1953)

[*Published in the Raj. Gazette, Part IV-A dated 31-10-1953*]

1. The Rajasthan Panchayat (Amendment) Act, 1955
(Rajasthan Act No. 23 of 1955).

[Published in Rajasthan Gazette Extraordinary, Part IV-A, dated 22.12.1955].

2. The Rajasthan Panchayat (Amendment) Act, 1957 (Rajasthan Act No. 14 of 1957).

[Published in Rajasthan Gazette Extraordinary, Part IV-A, dated 30-5-1957.]

3. The Rajasthan Entertainments Tax Act, 1957 (Rajasthan Act No. 24 of 1957).

[Published in Rajasthan Gazette-Extraordinary, Part IV-A, dated 12.7.1957].

4. The Rajasthan Laws (Extension) Act, 1957 (Rajasthan Act No. 27 of 1957).

[Published in Rajasthan Gazette-Extraordinary, Part IV-A, dated 13-8-57].

5. The Rajasthan Panchayat (Amendment) Act, 1958,
(Rajasthan Act No. 18 of 1958).

[Published in Rajasthan Gazette-Extraordinary, Part IV-A, dated 14-5-1958].

6. The Rajasthan Panchayat (Second Amendment) Act,
1958 (Rajasthan Act No. 40 of 1958).

[Published in Rajasthan Gazette-Extraordinary, Part IV-A, dated 1.12.1958].

7. The Rajasthan Panchayat (Amendment) Act, 1959 (Rajasthan Act No. 30 of 1959).
[Published in Rajasthan Gazette-Extraordinary, Part IV-A, dated 13.6.1959].
8. The Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act No. 37 of 1959).
[Published in Rajasthan Gazette-Extraordinary, Part IV-A, dated 9.9.1959].
9. The Rajasthan Prevention of Mrityu Bhoj Act, 1960 (Rajasthan Act No. 1 of 1960).
[Published in Rajasthan Gazette-Extraordinary, Part IV-A, dated 10.2.1960].
10. The Rajasthan Panchayat (Amendment) Act, 1960 (Rajasthan Act No. 25 of 1960).
[Published in Rajasthan Gazette Extraordinary, Part IV-A, dated 24.8.1960].
11. The Rajasthan Panchayat (Amendment) Act, 1961 (Rajasthan Act No. 10 of 1961).
[Published in Rajasthan Gazette Extraordinary, Part IV-A, dated 4-4-1961].
12. The Rajasthan Laws Repealing and Amending Act, 1962 (Act No. 21 of 1962)
[Published in Raj. Gazette, Part IV-A, Extraordinary date 15.12.1962].
13. The Rajasthan Panchayat (Amendment) Act, 1964 (Act No. 20 of 1954)
[Published in Raj. Gazette. Part IV-A. Extraordinary dated 7.9 1964]
14. The Rajasthan Panchayat Laws (Amendment) Act, 1964 (Act No. 32 of 1964),
[Published in Raj. Gazette Part IV-A; Extraordinary dated 3.12.1964].

THE RAJASTHAN PANCHAYAT ACT, 1953

(Act No XXI of 1953).

*[Published in the Rajasthan Gazette (Rajpatra)
Part IV-A, dated 31 st October, 1953]*

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THE RAJASTHAN PANCHAYAT ACT, 1953

(Act No. XXI of 1953)

[Received the assent of the President on the 10th day of October, 1953]

An

Act

*to establish and develop Local Self-Government in the
rural areas of ¹[the State of Rajasthan].*

Whereas it is expedient to establish and develop Local Self-Government in the rural areas of ¹[the State of Rajasthan] and to make better provision for village administration and development.

Be it enacted by the Rajasthan State Legislature as follows:—

CHAPTER I.

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Rajasthan Panchayat Act, 1953.

(2) It shall extend to ²[the whole of the State of Rajasthan] except such areas thereof, as have been, or may hereafter be, declared as, or included in, a Municipality and other areas specifically or generally exempted by the State Government from the operation of this Act from time to time by notification in the ¹[Official Gazette].

1. Substituted by section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Part IV-A Extra., dated 18-8-57.

2. Substituted by section 3 *ibid.*

(3) It shall come into force on such date as the State Government may, by notification in the ¹[Official Gazette], appoint.

Comments

1. Enforcement. —

The Act was first published in the Official Gazette (Rajasthan Raj-patra) Part IV-A on the 31st October, 1953. It came into force with effect from 1st January, 1954 vide Government Notification No. F. 1(n)(64)LSG /53, dated 24-12-1953 published in the Rajasthan Gazette, Part I No. 129, dated 26th December 1953.

Since its publication, the Act has been amended fourteen times up till now* as per the amending measures listed on the page facing that of the table of contents.

2. Statement of Objects and Reasons.—

The statement of objects and reasons of the Rajasthan Panchayat Bill, 1953 (published in the Rajasthan Gazette, Part III, dated 13-5-1952), which was enacted into this Act, reproduced below will show that the Act was made with the dual object of consolidating the different Laws relating to Panchayats in force in the various Covenantee States before the formation of Rajasthan and of developing local self government in the State:—

“Different Covenantee States of Rajasthan have different Laws dealing with village Panchayats and considerable difficulty is being experienced in the administration thereof in the territories, to which they extend. It is desirable to follow a uniform policy and to have a uniform Law on the subject. Hence the bill, which is designed to develop Local Self Government in rural areas of Rajasthan.”

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) “building” includes any hut, shed or other enclosure, whether used as a human dwelling or for any other purpose, and also walls, verandahs, fixed platforms, plinths, doorsteps and the like;

¹ Substituted by section 4 of Rajasthan Act. No. 27 of 1957, published in Rajasthan Gazette, Extra., Part IV-A, dated 13-8-57.

(2) "case" means a criminal proceeding in respect of an offence triable by a ¹[Nyaya Panchayat];

²[(2A) "Collector" includes an Additional Collector;]

³[(2B) "Nyaya Panchayat" means a Nyaya Panchayat constituted under section 27B;]

(3) "Panch" means a member of a Panchayat, ⁴[other than a Sarpanch];

(4) "Panchayat" means a Panchayat established under this Act;

(5) "Panchayat Circle" means the local area over which a Panchayat exercises jurisdiction;

(6) "prescribed" means prescribed by this Act or by rules made thereunder;

⁵[(6A) "Population" used with reference to a Panchayat Circle or ward thereof, means the population of such circle or ward according to the returns of the latest Government census for the time being :]

⁶[Provided that the population of scheduled castes in a Panchayat circle shall be such as may be certified by the Collector of the District in which that Panchayat circle lies;]

1. Substituted by section 2 (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-8-1960.

2. Inserted by section 4 (i)(a) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra., Part IV-A, dated 9-9-1959.

3. Inserted by section 2(b) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-1960.

4. Inserted and shall be deemed always to have been inserted by section 2 of Rajasthan Act No. 40 of 1958, published in Rajasthan Gazette, Extra., Part IV A, dated 1-12-58.

5. Inserted by section 4(i)(b) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra., Part IV-A, dated 9-9-59.

6. Added by section 2 (c) of Rajasthan Act No. 25 of 1960 published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-1960.

(7) "public land" or "common land" means land which is not in exclusive possession and use of any individual but is used by the inhabitants of a Panchayat Circle commonly;

(8) "Public street" means any road, street, bridge, lane, square, court, alley or passage which the public have a right to pass along and includes the drains or gutters on either side and land upto the defined boundary of any abutting property, notwithstanding any projection over such land or any verandah or other superstructure;

¹[(9) "Officer-in-charge of Panchayats" means the person or officer appointed by the State Government under section 74 to be the Officer-in-charge of Panchayats and includes an Officer subordinate to him appointed under that section;]

²[(9A) "Sarpanch" means the Sarpanch of a Panchayat elected under sub-section (1) of section 13;]

(10) "Scheduled Castes" means the castes, races, tribes or communities for the time being specified in Part XIV of the Schedule to the Constitution (Scheduled Castes) Order, 1950, and in Part XII of the Schedule to the Constitution (Scheduled Tribes) Order, 1950;

³[(11) × × × ×]

(12) "Suit" means a civil suit triable by a ⁴[Nyaya Panchayat];

⁵[(13) × × × ×]

1. Substituted by section 2 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extra., Part IV-A, dated 13-6-59.

2. Inserted by section 4 (i) (c) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra., Part IV A, dated 9-9-59.

3. Omitted by section 3 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extra., Part IV-A, dated 13-8-57.

4. Substituted by section 2 (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-1960.

5. Omitted by section 2 (e) *ibid*.

CHAPTER II

Establishment and Constitution of panchayats

3. *Establishment of Panchayats.*—¹[(1)] The State Government may, by notification in the ²[Official Gazette], establish a Panchayat for a village ³[or a part of a village] or a group of villages not included within the limits of a Municipality.

¹[(2) The State Government may by like notification:—

- (a) establish a Panchayat for the whole or a part of any area included within the limits of a municipality, or
- (b) include any such area or part in any Panchayat Circle:

Provided that, in doing so, it shall not be necessary for the State Government to observe and follow:—

- (i) the procedure laid down in the law governing such municipality or declaring that the whole or a part of the area thereof shall cease to be a municipality, or
- (ii) the procedure laid down in section 86 for the inclusion of any area in a Panchayat Circle.

(3) Upon the establishment

(a) of sub-section (2) for any

(a) such area or part shall
be deemed to be a

1- Renumbered and inserted by published Rajasthan Gazette, Extra, Part I.

2. Substituted by section 4 of Rajasthan Gazette, Extra, Part IV, dated

3. Inserted by section 3 of Rajasthan Gazette, Extra., dated 24-8-1955.

THE RAJASTHAN PANCHAYAT ACT, 1953

- (b) the municipal board established therein shall stand converted into a Panchayat for such Panchayat Circle;
- (c) until fresh elections are held under this Act:—
 - (i) the Chairman, Vice-chairman and all the members of the said municipal board shall, in case a Panchayat is so established for the whole of such municipal area, be deemed respectively to be the Sarpanch, Up-Sarpanch and Panchas of such Panchayat, or
 - (ii) if a Panchayat is so established for a part only of the municipal area, the members of the said municipal board, representing such part, shall be deemed to be the Panchas of such Panchayat and the Sarpanch and Up-Sarpanch thereof shall be elected by such members from amongst themselves,
- (d) the whole of the assets vesting in, and of the liabilities subsisting against, the said municipal board or, in case a Panchayat is so established for a part only of the municipal area, such portion of the said assets and liabilities as the State Government may direct, shall devolve on the Panchayat so established,
- (e) until new rules and bye-laws are framed under this Act, the rules and bye-laws applicable to the said municipal board shall, in so far as they are not inconsistent with or repugnant to the provisions of this Act or the rules made thereunder, apply to the Panchayat so established as if they had been duly made by or for such Panchayat, and
- (f) the Panchayat so established shall continue to levy such of the taxes lawfully imposed by the said

municipal board as a Panchayat has the power to impose under this Act as if those taxes had been duly imposed under this Act by the Panchayat so established.

(4) Upon the inclusion of any municipal area in a Panchayat circle under clause (b) of sub-section (2):—

- (a) the consequences mentioned in sub-section (2) of section 86 shall ensue,
- (b) the municipal board shall cease to function therein,
- (c) the Panchayat of that Panchayat circle shall commence to function therein,
- (d) the members of the said municipal board representing the area so included shall, until fresh elections are held, be the additional Panchas of the said Panchayat, and
- (e) the provision contained in clause (2) of sub-section (3) shall apply.

(5) For the purpose of Panchayat, or the inclusion under sub-section (2), the S give such directions as may :

Cor

A Panchayat can be established or its area known as Panchayat in the Official Gazette, which should be Headquarters, extent of its establishment (1956 RLW 402).

According to the provisions of be established only at a place not that an area is included in a Panchayat in such area shall be concerned and

and the Panchayat cannot co-exist at the same place. The section also provides for the legal consequences of the transfer of an area from a Municipality to a Panchayat.

¹[4. *Constitution of Panchayat.*— (1) A Panchayat shall consist of—

- (a) a Sarpanch;
- (b) such number of Panchas, not being less than five or more than twenty as the State Government may determine, elected from amongst the qualified voters of the Panchayat ;
- (c) panchas co-opted under section 9; and
- (d) presidents of all the service co-operative societies in the Panchayat circle certified, in the prescribed manner, as holding office as such who shall, so long as they continue to be such presidents, be associate members of the Panchayat.

Explanation:—“Service co-operative society” for the purposes of this sub-section means a society formed with the object of obtaining for its members the credit, goods or services required by them, registered or deemed to have been registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act 4 of 1953).

(2) An associate member of the Panchayat shall have the right to speak in, or otherwise to take part in the proceedings of, the Panchayat and of any committee of which he may be elected a member, but he shall not have a right to vote:

Provided that an associate member shall have a right to vote in proceedings relating to such matters of production programme as may be prescribed.

1. Substituted by sec. 2 of Raj. Act No. 32 of 1964, pub. in Raj. Gazette pt. IV-A, Extra dated 3-12-1964.

(3) If any question arises as to whether any member has ceased to be a president of any service co-operative society in the Panchayat circle, the question shall be referred for the decision of the prescribed authority and his decision shall be final.]

Comments

This section is new and has been amended by section 2 of the Rajasthan Panchayat Laws (Amendment) Act, 1964 (No. 32 of 1964) which came into force with effect from 3rd December, 1964. The new section implements the recommendations of the Report of the Study Team on the Panchayati Raj 1964, popularly known as the report of the Sadiq Ali Committee, formed by the State Government in November, 1962 to study the working of the Panchayati Raj and suggest suitable recommendations for its re-vitalisation. The Committee gave its Report in July, 1964. Some of the recommendations were accepted by the Government and they have been implemented by enacting the Rajasthan Panchayat Laws (Amendment) Act, 1964 (Act No. 32 of 1964). The Committee vide paras 4.27 and 4.28 recommended that with a view to provide a continuous association and ensure better coordination between the Panchayat and the Cooperative Society at the village level, the President of the Service Cooperative Society should be made Associate Member of the Panchayat without any right of vote. This section provides that the Presidents of all service cooperative Societies in the Panchayat Circle shall be associate members of the Panchayat. The Associate Members will have no right to vote, except in certain specific matters pertaining to production programmes. Associate Members are also not entitled to be elected to the office of an Up-Sarpanch.

5. *Wards*.—The ¹[Collector] ²[or such subordinate gazetted officer of the State Government as the Collector may authorise in this behalf] may divide each Panchayat circle into such number of wards as may be convenient for the purpose of election and fix the number of Panchas to be elected from each such ward.

1. Substituted by section 4 (iii) of Rajasthan Act No. 87 of 1960 published in Rajasthan Gazette, Extra., Part IV-A, dated 9-9-59.

2. Inserted and deemed to have been inserted from 9.9.1960 Act No. 10 of 1961 published in Rajasthan Gazette, Extra, Part IV A, dated 9-9-60.

6. *Election of Panchas.*—The election of Panchas shall be held and conducted in the prescribed manner.

7. *Term of office.*—¹[(1)] The term of a Panchayat shall be for a period of three years computed ²[from such date as may be notified by the State Government in this behalf :]

Provided that the State Government may, by notification in the ³[Official Gazette], extend from time to time the said term by a period not exceeding one year in the aggregate:

⁴[X X X]

⁵[(2)] Notwithstanding anything contained in sub-section (1), the term of Panchayats as existing on the date of the passing of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, ⁶[or established under sub-section (2) of section 3 before the 31st October, 1960] shall ⁷[xx] extend up to the 31st day of January, 1961.] ⁸[or such earlier date as may be notified by the State Government in this behalf.]

⁹[(3) Notwithstanding anything contained in sub-section (1) the term of the panchayats as existing on the date of the commencement of the Rajasthan Panchayat Laws (Amendment) Act, 1964, shall be extended up to the 31st day of March, 1965 or such earlier date as may be notified by the State Government in this behalf.]

1. Renumbered and inserted by sec. 4(iv) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette Extra Part IV-A dated 9.9.59.

2. Substituted from 28.10.1960 by sec 3 (a) of Raj. Act No. 10 of 1961, published in Rajasthan Gazette Extra part IV-A, dated 4.1.61.

3. Omitted from 28.10.60 by Sec. 3 (b) *ibid*.

4. Substituted by sec. 4 of Raj. Act No. 27 of 1957, published in Rajasthan Gazette part IV A extra dated 13.8.57.

5. Inserted by section 4 (b) of Raj. Act No. 25 of 1960, pub. in Raj. Gaz part IV A dt. 21.8.60.

6. Inserted from 28.10.60 by sec 3(b) (ii) of Raj. Act No. 10 of 1961.

7. Omitted by section 3(a) of Raj Act No. 33 of 61, pub in Raj. Gaz part IV-A Extra dated 3.12.61.

8. Added by Sec. 3(b) *ibid*.

[7A. *Continuance in office until new elections.*—Notwithstanding anything contained in section 7, the Sarpanch and Panchas of a panchayat, of which the term of office has expired, shall continue to hold office till the day immediately preceding the date of the first meeting of the Panchayat as a result of the periodical general election :

Provided that the provision contained in this section shall not apply if no steps shall have been taken before the expiry of the term of office of a Panchayat for holding fresh general elections.]

Comments

This section provides for the extension of the term of the existing Panchayats by means of a Government Notification in the Official Gazette even beyond its statutory term of three years. Such an extension can be made by a Government Notification, but the term of a Panchayat cannot be extended retrospectively by such a Notification i.e. after it has already expired. *Gulab Chand Vs. Ganesh Narain S. B. Civil Writ No. 365 of 1959*).

8. *Appointment of Panchas on failure to elect.*—If on the date fixed for election the electors of a Panchayat Circle or of any ward thereof fail to elect the requisite number of Panchas, the ²[Officer-in-charge of Panchayats] shall appoint a person or persons as prescribed to complete such number and every person so appointed shall be deemed to be a duly elected Panch:

Provided that the person so appointed shall not hold office for a period exceeding six months, unless duly elected.

1. Inserted by section 5 of Raj. Act No. 25 of 1960, pub. in Raj. Gaz. Extra. part IV-A dated 24.8.60.

2. Inserted by section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extra., Part IV-A, dated 13-6-59.

¹[8A. *Continuance and validation of certain panchayats.*—

(1) For the removal of doubt it is hereby declared that every panchayat, which commenced to function after the 9th day of September, 1959, otherwise than under sub-sections (2) to (4) of section 3 and of which the area of jurisdiction has not thereafter been altered under section 86 or section 86A, is not covered by the provision contained in sub-section (2) of section 7 and shall continue so to function as such for the full term of office as determinable under sub-section (1) of section 7.

(2) If to any such panchayat as is referred to in sub-section (1) an additional panch could be but was not appointed under section 9 in its unamended form, as it stood before its amendment by section 6 of the Rajasthan Panchayat (Amendment) Act, 1960 (Rajasthan Act 25 of 1960) then, notwithstanding the lack of the appointment of an additional panch thereto, such panchayat shall be deemed to have been validly formed and all acts done, and orders passed, by such panchayat up to the 31st day of January, 1961 shall be deemed to have been done and passed lawfully and validly:

Provided that, by the said 31st day of January, 1961 additional panchas to the said panchayat shall be co-opted for the remaining term of its office under and in accordance with the provisions contained in section 9 as amended by the aforesaid Amendment Act of 1960 and the rules made thereunder.]

²[9. *Co-option of certain Panchas.*—(1) As soon as may be after the election of Panchas and Sarpanch for a Panchayat,

1. Inserted and deemed to have been inserted from 15-12-60 by Section, 4 of Rajasthan Act, No. 10 of 1961, published in Rajasthan Gazette, Extraordinary Part IV-A, dated 4-4-1961.

2. Substituted by section 6 of Rajasthan Act No. 25 of 1960, pub. in Raj. Gazette Extra, Part IV-A, dated 4.8.1960.

there shall be co-opted in the prescribed manner by ¹[the Sarpanch and] the panchas so elected from amongst persons qualified under this Act to be elected as panchas—

(i) two women, if no woman has been elected to the Panchayat,

(ii) one woman, if only one woman has been so elected,

(iii) one person belonging to the scheduled castes, if no such person has been elected to the Panchayat, and

(iv) one person belonging to the scheduled tribes, if no such person has been so elected and the population of such tribes in the Panchayat Circle exceeds five per cent of the total population thereof.

²[(2) When members of a Panchayat are to be co-opted under sub-section (1), there shall be held on such day before the first meeting of the Panchayat as the Collector or any officer appointed by him in this behalf may fix, a meeting of Sarpanch and elected panchas for choosing co-opted members.]

(3) If, within one month of ³[such meeting for co-option] the Panchayat fails to co-opt the requisite number of persons, the Collector shall nominate such person or persons and every person so nominated shall be deemed to have been duly co-opted.

(4) The persons so co-opted or deemed to be co-opted ⁴[xxx] shall in all respects and for all purposes be deemed to be duly elected Panchas.]

1. Ins. by Sec. 4 (a) of Raj. Act No. 32 of 1964, pub. in Raj. Gaz. Part IV-A, Extra., dated 3-12-1964.

2. Subs. by Sec. 4 (b) of Raj. Act No. 32 of 1964, pub. in Raj. Gaz. pt. IV-A, Extra. dated 3-12-64

3. Subs. by Sec. 4 (c) *ibid.*

4. Omitted by Sec. 4 (d) *ibid.*

Comments

This section provides that the Sarpanch and the Panchas excluding the Associate Members shall together elect the co-opted Members. Up-till now i.e. before the amendment made in this section by the Rajasthan Act No. 32 of 1964, the Sarpanch had no voting rights in the Election of the co-opted members.

[9A. *Appointment of administrator in certain cases.*—

(1) Whenever:—

- (a) a new Panchayat is established under sub-section (1) of section 3, or
- (b) the election of all the Panchas, with or without the Sarpanch, has been declared void, or
- (c) such election and the proceedings subsequent thereto have been stayed by an order of a competent court, or
- (d) the term of office of an existing Panchayat has expired before the finalisation of such election and proceedings,

the State Government shall, by notification in the Official Gazette, appoint an Administrator for such period as may be specified in the notification.

(2) The State Government may at any time, by notification in the Official Gazette, curtail or extend the period of appointment made under sub-section (1).

(3) On the appointment of an Administrator under sub-section (1) all powers and duties of the Panchayat and Sarpanch thereof shall be exercised and performed by the Administrator so appointed.

(4) The Administrator shall be deemed to be a duly constituted Panchayat for the purposes of this Act.]

1. Inserted by section 7 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra., Part, IV-A dated 24-8-1960.

¹[10. *Electors, electoral rolls and right to vote.*—(1) For each of the wards into which a Panchayat circle is divided under section 5, there shall be prepared and maintained ²[xx] in the prescribed manner ³[by or under the supervision of the Collector or such subordinate gazetted officer of the State Government, as the Collector may authorise in this behalf] a list of the voters thereof.

⁴[(1A) Every person, who is qualified to be registered in the Rajasthan Legislative Assembly electoral roll relating to the area comprised in the Panchayat circle or a ward thereof or whose name is entered in such roll, shall be entitled to be registered in the list of voters of such panchayat circle or ward, as the case may be :

Provided that no such person shall be entitled to be so registered more than once or in more than one ward of the same panchayat circle].

(2) Such list shall ⁵[subject to the provisions of sub-section (1A) and further subject to any rules made in this behalf] conform to the latest electoral roll of the Rajasthan Legislative Assembly relating to the area comprised in such ward, prepared under and in accordance with the provisions of the Representation of the People Act, 1950 (Central Act 43 of 1950).

(3) Every person whose name appears for the time being in the list of voters for a ward shall, unless he is disqua-

1. Substituted by Section 8. of Rajasthan Act. No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV A, dated 21-8-60.

2. Omitted and deemed to have been omitted from 31-10-60 by Sec. 5 (i) (a) of Rajasthan Act, No. 10 of 1961, published in Rajasthan Gazette, Extraordinary Part IV-A, dated 4-4-61.

3. Inserted and deemed to have been inserted from 31-10-60 by Sec. 5 (i) (b) *Ibid.*

4. Inserted and deemed to have been inserted from 31-10-1960 by Sec. 5 (ii) *Ibid.*

5. Inserted and deemed to have been inserted from 31-10-1960 by Sec. 5 (iii) *Ibid.*

lified to do so under any law, for the time being in force, be entitled to vote at an election in that ward.

(4) Every such person shall be entitled to cast as many votes as there are Panchas to be elected from that ward and no person shall be entitled to vote in more than one ward or to cast more than one vote in favour of the same person.]

11. *Qualification of Panchas.*—Every person, who is entitled to vote at an election in any Panchayat Circle or a Ward thereof for the purposes of this Act, shall be qualified for election or appointment as a Panch, unless such person—

[(a) holds a salaried whole-time or part time appointment under the Central Government or a State Government or a local authority:]

(b) is under 25 years of age :

(c) has been dismissed from [State Government] service for misconduct involving moral turpitude and has been declared to be disqualified for employment in the public service :

(d) holds any salaried post or place of profit in the gift or disposal of Panchayat:

(e) has directly or indirectly [by himself or by his partner, employer or employee] any share or interest in any contract with, by or on behalf of, the Panchayat, while owning such share or interest [in any work done for or:]

1. Substituted by Section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extra Part IV, dated 28-8-1957.

2. Inserted by Section 1 (a) of Rajasthan Act No. 27 of 1952, published in Rajasthan Gazette, Extra Part IV, dated 28-8-1952.

3. Substituted by Sec. 6 of Act No. 10 of 1952, pub. in Raj. Gaz. part IV-1 extra dated 1-11-52.

- (f) is a leper or is suffering from other bodily or mental defect or disease rendering him incapable for work ;
- (g) has been convicted by a competent court of an offence involving moral turpitude ;
- (h) is an undischarged insolvent;
- ¹[(i) has been convicted of an offence under the Untouchability (Offences) Act, 1955 (Central Act 22 of 1955,
- ²[(j) is for the time being ineligible for election under sub-section (4B) of section 17 of this Act or under sub-section (3) of section 40 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 ;
- (k) has not paid, for two months from the date of the presentation of the bill therefore, the amount of any tax or fee imposed by the Panchayat under this Act or by a Panchayat Samiti under the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 ;
- (l) is employed as a legal practitioner on behalf of, or against, the Panchayat ;]
- ³[(m) has been convicted of an offence punishable under the Rajasthan Prevention of Mrityu Bhoj Act, 1960:]
- ⁴[Provided that—
- (i) a person shall not, by reason of his being a shareholder in or a member of any incorporated company

1. Inserted by Section 2 of Rajasthan Act No. 14 of 1957, published in ~~Rajasthan~~ Gazette, Extra. Part IV-A, dated 30-5-1957.

2. Inserted by Section 4 (vi) (c) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra. Part IV A, dated 9-9-1959.

3. Inserted by Section 13 (i) of Rajasthan Act No. 1 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 10-2-1960.

4. Substituted by Section 4 (vi) (d) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra. Part IV-A, dated 9-9-1959.

or a co-operative society registered under the law for the time being in force in the State of Rajasthan, he held to be interested in any contract entered between the company or co-operative society and the Panchayat ;

- (i) for the purposes of clauses (c), (g), '[× × ×] (i) '[and (m)] any person shall become eligible for election after a lapse of six years from the date of his dismissal or conviction, as the case may be, or earlier if he is declared eligible for election by a general or a special order of the State Government in this behalf, and
- (iii) for the purpose of clause (k), a person shall not be deemed to be disqualified if he has paid the amount of the tax or fee due from him before the date of filing his nomination papers.

Comments

The qualifications prescribed in this section should exist on the date of the filing of the Nomination Paper. Subsequent acquisition of qualifications will be of no avail.

Disqualification mentioned in this section resulting from dismissal or conviction by a court for an offence involving moral turpitude can be automatically removed by lapse of time, i. e. 6 years from the date of dismissal or conviction, as the case may be. The Government can, however remove any such disqualification earlier by a general or special order.

12. *Prohibition against holding office in more than one Panchayat.*—No person shall hold office in more than one Panchayat.

13. *Sarpanch and Up-sarpanch.*—(1) Every Panchayat shall have a Sarpanch who must be a person qualified to be elected as a Panch and able to read and write Hindi and shall be elected by the electors of the whole Panchayat Circle in the prescribed manner.

2. Every Panchayat shall have an Up-Sarpanch who must be a person able to read and write Hindi and shall be elected [in the prescribed manner by the Sarpanch and the elected and co-opted panchas from amongst the elected and co-opted panchas]

3. If the electors of a Panchayat Circle fail to elect Sarpanch in accordance with this section or if the Panchas fail to elect Up-Sarpanch, the State Government shall appoint a person to the vacancy till such vacancy is filled up by election within a period of six months and the person so appointed shall be deemed to be a duly elected Sarpanch or Up-Sarpanch, as the case may be.

(4) Except as provided above a Sarpanch shall hold office during the term of the Panchayat and an Up-Sarpanch as long as he continues to be a Panch of the Panchayat.

Recd 10/11/64

Comments

1. Sarpanch now, can vote at election of Up-Sarpanch.

By the amendment in sub-section (2) of this section, the Sarpanch can now vote in the election of the Up-Sarpanch. Prior to this amendment the Sarpanch had no such rights. The Associate Members shall, however, have no rights to participate in the Election of an Up-Sarpanch.

2. Ability to read and write hindi, meaning—

The ability to read and write Hindi in this section means ability to read and write simple Hindi and not the ability to write and understand high flowing sanskritised or statutory Hindi [Hindi Translation of Acts & Rules published in the Govt. Gazettes). If a person is able to read simple Hindi and write simple orders, he will be deemed to be able to read and write Hindi and qualified under this Section.

1. Subs. by sec. 5 of Raj. Act. No. 32 of 1964, pub. in Rajasthan Govt. Gaz. Extra dated 3-12-1964.

the ¹[official Gazette] in accordance with rules made under this Act.

²[15. *Oath or affirmation*.—Every Panch or Sarpanch shall, before entering upon his duties as such, make and subscribe before the prescribed authority an oath or affirmation in the prescribed form.]

³[15 A. *Handing over of charge*.—(1) Whenever the election of a Panch, Sarpanch or Up-Sarpanch has been declared to be void, or

whenever any Panch, Sarpanch or Up-Sarpanch—

(i) is not qualified or becomes disqualified under Section 11 to hold such office, or

(ii) ceases to be so under sub-section (2) of section 17 or otherwise, or

(iii) fails to make the prescribed oath or affirmation in accordance with sub-section (3) of section 17, or

(iv) is removed from office under sub-section (4) of section 17 or is suspended under sub-section (4A) of that section, or

(v) resigns his office under section 18; or

Whenever a motion of no-confidence is passed against a Sarpanch or Up-Sarpanch under section 19 and such Sarpanch or Up-Sarpanch does not resign and is consequently removed from office; or

1. Substituted by Section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extra. Part IV-A, dated 13-8-57.

2. Subs. by Sec., 8 of the Raj. Act No 32 of 1964, pub. in Raj Gaz part IV-A Extra, dated 3-12-64

3. Inserted by Section 9 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 24-3-1960,

Whenever the term of office of a Panchayat expires and the election of all the Panchas with or without the Sarpanch has been declared void or such election or the proceedings subsequent thereto have been stayed by an order of a competent court ; or

Whenever a Panchayat is dissolved or superseded under Section 73, such Panch, Sarpanch or Up-Sarpanch or the Sarpanch and Panchas of such Panchayat, as the case may be shall forthwith hand over charge in the prescribed manner of his or their office including all papers and properties, pertaining to such office, in his or their actual possession or occupation,—

(a) in the case of a Panch, to the Sarpanch of the Panchayat,

(b) in the case of a Sarpanch, to the Up-Sarpanch of the Panchayat or, where there is no such Up-Sarpanch, to such Panch of the Panchayat or other person as the officer-in-charge of Panchayats may direct,

(c) in the case of an Up-Sarpanch, to the Sarpanch of the Panchayat or, where there is no such Sarpanch, to such Panch of the Panchayat or other person as the officer-in-charge of Panchayats may direct,

(d) in the case of a Panchayat of which the term of office has expired—

(i) if a new Panchayat has been constituted, to such Panchayat, or

(ii) if a new Panchayat has not been constituted for any of the reasons specified in section 9A, to the Administrator appointed under that Section; and

(e) in the case of a Panchayat dissolv

under section 73, to the Panchayat newly constituted or to the Administrator appointed under that section.

(2) Upon the election or appointment of a new Panch, Sarpanch or Up-Sarpanch or upon the constitution of a new Panchayat, as the case may be, and after the oath or affirmation of office required by section 15 has been duly made, the person holding, at the date on which such oath or affirmation is made, charge of the office of such Panch, Sarpanch, Up-Sarpanch or Panchayat in pursuance of sub-section (1) shall forthwith hand over to the person so elected or to the Panchayat so constituted, as the case may be, the charge of office including all papers and properties pertaining to such office in his actual possession or occupation.

(3) If any person fails or refuses to hand over charge of office as required under sub-section (1) or sub-section (2), the prescribed authority may, by order in writing, direct the person so failing or refusing to hand over such charge forthwith to the person or persons entitled thereto under sub-section (1) or sub-section (2), as the case may be.

(4) If the person to whom a direction has been issued under Sub-section (3) fails to comply with the direction, he shall, on conviction, be punished with imprisonment for a term not exceeding one year or with fine not exceeding one thousand rupees or with both.

(5) Any officer empowered by the prescribed authority in this behalf may, without prejudice to any action that has been or may be taken under sub-section (4), use such force as may be deemed necessary for enforcing the provisions of sub-sections (1) and (2) and may for that purpose invoke in the prescribed manner the assistance of the police or the nearest Magistrate competent to do so].

16. *Powers and duties of Sarpanch and Up-Sarpanch.*—

(1) The Sarpanch shall—

(i) preside over and regulate the meetings of the panchayat;

¹[(ii) × × ×]

(iii) Keep the records and registers of the Panchayat in his custody ;

(iv) arrange for the sitting of the ²[Nyaya Panchayat] and service of summons ;

(v) be responsible for maintaining the accounts of the Panchayat fund ;

(vi) make all such payments as have been sanctioned by the Panchayat ;

(vii) issue receipts under his signature for sums of money received on behalf of the Panchayat ;

(viii) be responsible for the safe custody of the Panchayat fund ;

³[(ix) × × ×]

³[(x) × × ×]

(xi) cause to be prepared all statements and reports required by or under this Act ;

(xii) exercise supervision and control over the acts and proceedings of all officers and servants of the Panchayat ;

1. Omitted by section 10 (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-1960.

2. Substituted by Section 10 (b) *Ibid.*

3. Omitted by Section 10 (c) *Ibid.*

- .. (xiii) watch over the administration and finance of the Panchayat ;
- .. (xiv) furnish to the State Government or the '[Officer-in-charge of Panchayats] such reports, returns and records, whether periodical or otherwise, as may be prescribed or as may from time to time be called for ; and
- .. (xv) execute such other works or discharge such other functions as the Panchayat or the '[Officer-in-charge of Panchayats] may authorise him to execute or discharge, and exercise such powers in the execution or discharge of such works or functions as may be conferred on him by this Act or rules made thereunder. '

(2) The Up-Sarpanch shall—

- (i) Perform such duties as may be allotted to him by the Sarpanch ; and
- (ii) in the absence of Sarpanch due either to his office remaining vacant or otherwise, perform all the functions and exercise all the powers of the Sarpanch.

“(3) If the Sarpanch of a panchayat is elected as the Pradhan of a Panchayat Samiti or as the Pramukh of a Zila Parishad under the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959) :—

- (i) he shall, on and from the date of his election as such Pradhan or Pramukh, as the case may be,

1. Substituted by section 5 of Rajasthan Act No. 80 of 1959, published in Rajasthan Gazette, Extra., Part IV-A, dated 18-6-1959.

2. Inserted by Sec. 7 of Rajasthan Act No. 10 of 1961 published in Rajasthan Gazette Extraordinary part IV-A, dated 4-1-1961.

nominally continue to be the Sarpanch of that panchayat for so long as he would have but for such election held office as such Sarpanch,

- (ii) during that period he shall neither have any hand in the administration of the affairs of that panchayat nor participate in the meetings thereof,
- (iii) he shall hand over charge of all papers and properties pertaining to his office as such Sarpanch, as provided in section 15A, to the Up-Sarpanch of the panchayat who shall, subject to the provision contained in sub-section (4), thereafter act, during that period, as Sarpanch for all practical purposes and represent the panchayat on the panchayat samiti concerned as a member of the latter,
- (iv) fresh elections to the office of the Sarpanch of that panchayat shall not be held during the said period, and
- (v) if during that period he vacates the office of the Pradhan or Pramukh upon removal or otherwise, he will resume charge of the office of the Sarpanch and shall as such replace the Up-Sarpanch as a representative of the panchayat on the Panchayat Samiti.

(4) If an Up-Sarpanch representing under clause (iii) of sub-section (3) a panchayat on the panchayat samiti concerned as a member of the latter is elected Pradhan of that panchayat samiti under the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959), such Up-Sarpanch shall, as from the date of such election, cease to be the Up-Sarpanch of the panchayat and fresh elections to the office of the Up-Sarpanch of that panchayat shall be immediately held].

17. *Vacation of seats by and removal of Panchas*.—(1)

(a) If any Panch, Sarpanch or Up-Sarpanch, who is not qualified for election or appointment as such under this Act, has been elected or appointed to a Panchayat, or

(b) if any Panch, Sarpanch or Up-Sarpanch after having been elected or appointed as aforesaid, becomes disqualified during the term of his office for such election or appointment, his seat shall be declared by the State Government, after giving him an opportunity of being heard, to have become vacant.

(2) If any Panch, Sarpanch or Up-Sarpanch during the term of his office, absents himself from five consecutive meetings of the Panchayat without giving information in writing to the Panchayat he shall cease to be such Panch, Sarpanch or Up-Sarpanch and his seat shall become vacant.

(3) If any Panch or Sarpanch fails to make the prescribed oath or affirmation of his office within three months from the date of notification under section 14, his seat shall be declared by the State Government to have become vacant.

(4) The State Government may, by order in writing and after giving him an opportunity of being heard and making such inquiry as may be deemed necessary, remove any Panch, Sarpanch or Up-Sarpanch who—

(a) refuses to act or becomes incapable of acting as such, or

(b) in the opinion of the State Government, has been guilty of misconduct or neglect in the discharge of his duties or of any disgraceful conduct:

[Provided that any such inquiry as is referred to in

this sub-section may be initiated even after the expiry of the term of a Panchayat or, if already initiated before such expiry, may be continued thereafter and in any such case the State Government shall, by order in writing only records its findings on the charges levelled against a Panch, Sarpanch or Up-Sarpanch of the Panchayat during its term of office].

1[(4A) The State Government may, during the course of any inquiry under sub-section (4), suspend a Panch, Sarpanch or Up-Sarpanch against whom the inquiry has been started and debar him from taking part in any act or proceeding of the Panchayat while under such suspension.

(4B) A Panch, Sarpanch or Up-Sarpanch who has been removed under sub-section (4) or against whom findings have been recorded under the proviso to that sub-section shall not be eligible for re-election under this Act for a period of three years from the date of his removal or, as the case may be, from the date on which such findings are recorded].

(5) The decision of the State Government on any matter arising under this section ²[shall, subject to any order made under section 70B, be final] and shall not be liable to be questioned in any court of law.

Comments

1. Misconduct relates to current term—

The expression "Misconduct" or neglect used in this section relate to any misconduct or neglect during the current term and not to any such act done during any previous term. No action for the removal or even suspension of any Panch or Sarpanch can be taken under sub-section 4 in respect

1. Substituted by Section 4 (vii) (b) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra., Part IV-A dated 9-9-1959.

2. Ins. by Sec. 2 of Raj., Act No. 20 of 1964 published in Raj. Gazette, Part IV A, Ext., dated 7-9-1964.

of any act or omission done by him during his previous term of office (1953 RLW 385 1963 RLW 231).

2. Powers of Review.—

Under Section 70-B, the State Government can review any order passed under sub-section 4 of this section within 90 days of the passing of such order, if it is found that it was passed under any mistake of law or fact. A Court Fee of Rs. 5/- has to be affixed on a Petition of Review, filed under Section 70-B of the Act.

18. *Resignation of office of Panch or Sarpanch.*—A Panch, Sarpanch or Up-Sarpanch may resign his office by letter addressed to the '[Officer-in-charge of Panchayats]' and, on such resignation being accepted by the '[Officer-in-charge of Panchayats]', such Panch, Sarpanch or Up-Sarpanch shall be deemed to have vacated his office.

Comments

Resignation can be withdrawn—

A resignation by a Panch or Up-Sarpanch can be withdrawn at any time before it is accepted by the Officer In-charge of the Panchayats.

19. *Motion of no-confidence.*—(1) A motion of no-confidence may be moved by ²[any elected or co-opted panch] after giving such notice as may be prescribed against a Sarpanch and Up-Sarpanch.

(2) If the motion against the Sarpanch is carried by a majority of not less than $\frac{3}{4}$ of the total number of ³[members of the Panchayat including the Sarpanch but excluding the associate Panchas,] or if the motion against the Up-Sarpanch is carried by a majority of the total number of ³[members of the Panchayat including the Sarpanch but excluding the associate Panchas,] the Sarpanch or the Up-Sarpanch,

1. Substituted by section 5 of Rajasthan Act No. 50 of 1959 published in Rajasthan Gazette, Extra., Part IV-A, dated 13-6-1959.

2. Subs. by Sec. 9 (a) of Raj., Act No. 32 of 1961, pub. in Raj. Gaz. Pt. IV A, Ext. dated 3-12-61

3. Subs by Sec., 9 (b) *Ibid.*

as the case may be, shall within 3 days of the passing of the motion resign his office by submitting his resignation to the 1[Officer-in-charge of the Panchayats] and thereupon his office shall be deemed to be vacant.

(3) If the Sarpanch or the Up-Sarpanch as the case may be against whom the motion of no-confidence has been carried, does not resign his office within the period prescribed in sub-section 2, he shall be removed from his office by the 1[Officer-in-charge of Panchayats.]

(4) Notwithstanding anything contained in this Act or rules made thereunder, a Sarpanch or an Up-Sarpanch shall not preside at a meeting in which a motion of no-confidence is discussed against him but he shall have a right to speak and otherwise to take part in the proceedings of the Panchayat 2[including a right to vote.]

Comments

A Sarpanch or an Up-Sarpanch can vote in a motion of no-confidence. A motion of no-confidence can be brought only by an elected or coopted Member of a Panchayat and not by an Associate Member. The Sarpanch or the Up-Sarpanch can now take part in the voting on a motion of no-confidence against him. Prior to this recent amendment made in sub-section 4, the Sarpanch or Up-Sarpanch had no such right to vote in a motion of no-confidence against themselves.

20. *Bye-election.*—In the event of the office of a Panch Sarpanch or Up-Sarpanch becoming vacant by death, removal, resignation or otherwise under this Act, which shall be forthwith reported to the 1[Officer-in-charge of Panchayats], an election to fill the vacancy shall be held in such manner as may be prescribed. The foregoing provisions of this Act shall apply to such election & the Sarpanch, Up-Sarpanch or Panch so elected or appointed shall hold office for the remainder of the term during which the out-going Sarpanch, Up-Sarpanch or Panch would have been entitled to hold office if the vacancy had not occurred :

1. Subs. by sec. 5 of Raj. Act No. 30 of 1959 pub. in Raj. Gaz. Extra part 17-2-59 13.6.59.

2. Added by sec. 9 (e) of Raj. Act 32 of 1964 pub. in Raj. 3.12.64.

(8C) such Panch may challenge the decision of the Sarpanch who shall thereupon put the question to the meeting and the decision of the meeting thereon shall be final,

(8D) If the Sarpanch is believed by any Panch present at a meeting to have interest in any question under discussion, the Sarpanch shall, if a motion to that effect is carried, absent himself from the meeting during such discussion.]

(9) The decisions of Panchayat shall be carried out by the Sarpanch in whom its entire executive power is vested [and who shall be directly responsible for the due fulfilment of the duties of a Panchayat under this Act.]

22. *An Act of a Panchayat not to be invalidated by vacancy or irregularity.*—No act of Panchayat shall be deemed invalid by reason of any vacancy of the Sarpanch or Up-Sarpanch or in the number of Panchas prescribed for such Panchayat or by reason of any defect, error omission or irregularity in the election or appointment of the Sarpanch, Up-Sarpanch or any other Panch of such Panchayat.

²[22A. *Modification or cancellation of resolutions or orders.*—No resolution or order of a Panchayat shall be modified, amended, varied, annulled or cancelled by the Panchayat within a period of three months from the date of the passing thereof except by a resolution supported by the votes of not less than two-thirds of the total number of Panchas of such Panchayat:

Provided that no such resolution or order in relation to the sale of, or refusal to sell, any abadi land within the Panchayat circle shall be so modified, amended varied, annulled

1. Inserted by Section 11 (b) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

2. Inserted by Section 12 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-9-1960.

or cancelled otherwise than on appeal in the prescribed manner.]

23. *Appointment of Secretary and other staff.*—Every Panchayat may, ¹[subject to any general or special directions issued by the State Government and] with the previous approval of the ²[Panchayat Samiti] appoint a Secretary and such other staff as may be necessary for carrying out the duties imposed on it by or under this Act on such conditions of service as may be prescribed:

Provided that the approval of the ²[Panchayat Samiti] shall not be necessary for any Part-time appointment made on conditions less favourable than the prescribed conditions of service.

³[Provided further that any panchayat may, subject as aforesaid and with the like approval, direct that one person shall be appointed to discharge the duties of any two or more offices.]

1. Ins. by Sec. 3 read with the second schedule of Raj. Act No 21 of 1962, pub. in Raj. Gazette, Part IV-A, Ext. dated 5-12-1962.

2. Substituted by Section 4 (ix) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra. Part IV-A, dated 9-9-1959.

3.

CHAPTER III

Powers, Duties, Functions and Administration of Panchayats.

¹[23A. *Panchayats to convene meetings of residents.*—

(1) Every Panchayat shall convene, in such manner and at such times and intervals as may be prescribed, a meeting of all adult residents of the Panchayat circle.

(2) At such meetings the programmes and works undertaken by the Panchayat and their progress shall be explained and the views of the residents thereon shall be reported to the Panchayat at its next meeting.]

²[24. *Duties of Panchayats.*—(1) It shall be the duty of every Panchayat, so far as the Panchayat fund at its disposal will allow, to make reasonable provision within the Panchayat circle in regard to all or any of the matters specified in the Third Schedule.

(2) A Panchayat may with the previous sanction of the Panchayat Samiti also make provision for carrying out, outside its Panchayat circle, any work of the nature specified in the Third Schedule.

(3) A Panchayat may also make provision for carrying out within its Panchayat circle any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic or cultural well-being of the inhabitants of its Panchayat circle.

1. Inserted by Section 4 of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra. Part IV-A, dated 9-9-1959.

2. Substituted by Section 13 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 21-8-1960.

(4) A Panchayat may, by resolution passed at its meeting and supported by a majority of two-thirds of the total number of its Panchas, make provision for any public reception, ceremony or entertainment within its Panchayat circle or may make contribution towards an annual gathering or such other gathering of Panchayats in the district or the State.

(5) If it comes to the notice of a Panchayat that on account of the neglect of a land holder of any dispute between him and his tenant the cultivation of his lands has seriously suffered, the Panchayat may bring such fact to the notice of the Collector.

(6) A Panchayat shall in regard to the measures for the amelioration of the condition of scheduled castes and scheduled tribes and other backward classes and in particular in the removal of untouchability, carry out the directions or orders given or issued in this regard from time to time by the State Government, the Collector, the Officer-in-charge of Panchayats or any officer authorised by the Collector.

(7) A Panchayat shall perform such other duties and functions as are entrusted to it by any other law for the time being in force.]

Comments

1. Power to remove encroachment.—

A Panchayat has no power to settle disputes : properties of private parties. It can, however, o encroachment on public lands, streets, roads, which chayat should not therefore, order the removal of an involves some civil rights of private parties, but hands at a mere assertion of a civil right by a pers lands. 1959 RLW 24).

2. No decision to be given Ex-parte

Panchayats have been given nume under other sections of the Act, but acc

of natural justice, no order should be passed against any person without giving him a reasonable opportunity to show cause against the proposed action. In some provisions, there is already a statutory provision of giving notice to the affected parties. But even where there is no such provision, no orders should be passed against any party without giving him a notice.

¹[25. *Power of State Government to withdraw matters specified in the Third Schedule.*—The State Government may at any time, for reasons to be recorded in writing, withdraw, by notification in the Official Gazette, any of the matters specified in the Third Schedule from the duties of any Panchayat.]

26. *Administrative powers of Panchayats.*—(1) A Panchayat shall have power to do all acts necessary for, and incidental to, the execution of its ²[× × × ×] duties, and in particular and without prejudice to the generallty of the foregoing provision, shall have power, by notice in writing,—

- (i) to require the owner or occupier of any land or building which includes or is attached to any latrine, pool or ditch, containing or used for the collection of any drainage, filth or stagnant water, which is a nuisance, to take such action as the Panchayat may deem reasonable;
- (ii) to require the owner or occupier of any building to remove any encroachment on a public way or drain;
- (iii) to prohibit the use of the water of the wells, ponds or other excavations suspected to be dangerous to the public health;
- (iv) to prohibit the watering of cattle or bathing or

1. Substituted by Section 14 of Rajasthan Act No. 25 of 1960, published Rajasthan Gazette, Extra. Part IV-A, dated 24-8-1960.

2. Omitted by section 15 *ibid*

washing at or near wells, ponds or other excavations reserved for drinking purposes:

- (v) to prohibit excavation of earth or stone or other material in, and within a reasonable distance from the village sites, provided that nothing in this clause shall apply to excavations meant to be filled by the foundations of building or other structures;
- (vi) to order the disposal and removal of carcasses of all animals dying within the village to a specified distance from the village site;
- (vii) to require the owner or the occupant of any house, building or land within the village site to keep the same in clean and sanitary condition;
- (viii) to require the owner of any building or a portion of a building which is in a dilapidated or dangerous condition to take sufficient measures to prevent it from being a source of public danger;
- (ix) to order the construction of cesspools and privy pits from the sanitary point of view;
- (x) to prohibit the selling or the exposing for sale of any article of food or drink which is unwholesome and unfit for human consumption;
- (xi) to require persons not to deposit filth, rubbish or other impure matter within the village site except in places or receptacles provided for that purpose by the Panchayat;
- (xii) to require the owner of a dog or other animal which is likely to annoy or intimidate passers-by to restrain such dog or animal;

- (xiii) to widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields;
- (xiv) to deepen or otherwise improve any water way; and
- (xv) to cut any hedge or branch of any tree projecting on a public street.

(2) A Panchayat, if it so desires, also as prescribed and on being allowed 10% of the realisation as collection charges, may be entrusted by the State Government with the duty and responsibility of the collection of land revenue and any other taxes or dues payable to the [State Government] in respect of any area within its jurisdiction, and the Patwaris in the said area shall then be deemed to be the servants of the Panchayat for all purposes in respect of their rights, duties and liabilities.

²[26A. *Appeals from orders of Panchayats under Chapter III—*(1) Any person aggrieved by any order or direction of a Panchayat under this Chapter or under any rule or bye-law made thereunder may appeal from such order or direction to the Panchayat Samiti having jurisdiction within thirty days from the date of such order or direction exclusive of the time requisite for obtaining a copy thereof.

(2) An appeal under sub-section (1) shall be heard by a standing committee of the Panchayat Samiti constituted under section 20 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959:

1. Substituted by Section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extra, Part IV-A, dated 18-8-1957.

2. Inserted by Section 4 (xiii) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 9-9-1959.

3[Provided that the Sarpanch or Up-Sarpanch of the Panchayat whose order or direction has been appealed against, if he is a member of such standing committee, shall not sit for the hearing of such appeal.]

(3) The standing committee referred to in sub-section (2) may, after hearing the person aggrieved, the Panchayat and any other person affected by the order or direction appealed against, vary, set aside or confirm such order or direction and may also award costs to or against the person filing the appeal.

(4) The decision of the standing committee shall for all purposes be deemed to be the decision of the Panchayat Samiti.]

Comments

Period of limitation--

The period of limitation of 30 days computed by excluding the day, on which it was passed and the days spent in obtaining

According to this section, an appeal under Chapter III lies to the Panchayat Standing Committee thereof constituted for the purpose. The Standing Committee is deemed to be a body of persons, and the Panchayat Samiti cannot revise or appeal, on the principle that a body cannot hear appeal from its own decision. Therefore, the appeals lie to the Panchayat Standing Committee. (Shah Poonam Chand V. L. : Page 167).

27. Power to fine a person who disobeys a general order.

8. Added by Section 18 of Rajasthan Amendment Act, 1954, Gazette, Extra. Part IV-A, dated 1-5-1954.

CHAPTER IV.

¹[*Nyaya Panchayats*]

²[**Constitution**]

27B. Constitution of Nyaya Panchayats.—(1) For the administration of criminal and civil justice there shall be constituted, by notification in the Official Gazette,¹ a Nyaya Panchayat for such number of contiguous Panchayat circles, not being less than five or more than seven in number, as the Officer-in-charge of Panchayats may direct :

Provided that the State Government shall have the power to direct the constitution of a Nyaya Panchayat for a smaller number of such Panchayat circles.

(2) The Nyaya Panchayat so constituted shall be known by such name as may be specified in the notification and the Panchayat circles for which it shall have been constituted shall collectively be called the Nyaya circle thereof and it shall be competent for the officer-in-charge of Panchayats with the approval of the State Government to reconstitute, from time to time, any such Nyaya circle by notification in the Official Gazette.

27C. Composition of Nyaya Panchayats.—(1) Every Nyaya Panchayat shall be composed of a panel of members equal in number to the number of Panchayat circles for which it is constituted.

(2) Subject to the provisions of sub-section (3) each Panchayat ³[excluding associate Panchase] shall elect in the

1. Substituted by Section 18 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 2-8-1960.

2. Inserted by Section 19 *ibid.*

3. Ins. by Sec. 10 of Raj. Act No. 92 of 1964, pub. in Raj. Gazette Part IV-A Extra, dated 3-12-1964.

prescribed manner one member to the Nyaya Panchayat constituted for its Panchayat circle from amongst the electors referred to in section 10.

(3) No person shall be qualified for being elected as, or for continuing to be, a member of a Nyaya Panchayat—

(i) if he is below thirty years of age, or

(ii) if he is unable to read and write Hindi fluently, freely and legibly, or

(iii) if he is or becomes subject to any of the disqualifications mentioned in section 11, or

(iv) if he is the Sarpanch or Panch of a Panchayat or the Pradhan or member of a Panchayat Samiti or the Pramukh or member of a Zila Parishad or a member of any Standing Committee of a Panchayat Samiti or the member of the House or the State Legislature or of Parliament :

Provided that a person holding any of the offices mentioned in clause (iv) shall be eligible for election as or for continuing to be a member of the Panchayat if he resigns such office.

(4) If a member resigns his office as or for continuing to be a member of the Panchayat he shall forthwith

(5) The provisions of sections 19 and 20 shall apply to the Nyaya Panchayat.

(6) The members of a Nyaya Panchayat shall elect within a month from the date of the administration of oath, from amongst themselves to be the Chairman of such Nyaya Panchayat :

Provided that if they fail to so elect the Chairman within the specified period, the Officer-in-charge of Panchayats shall appoint one from amongst the members to be such Chairman.

(7) As nearly as possible, one-third of the members of a Nyaya Panchayat shall retire by rotation as soon as may be on the expiration of every second year in accordance with rules made in that behalf by the State Government.

[27CC. *When Nyaya panchayats may be formed.*—Notwithstanding anything contained in section 24 of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955) or in any other law for the time being in force—

(a) rules made by the State Government for the formation of Nyaya Panchayats under sections 27B and 27C shall come into force on the date on which they are published in the Official Gazette even though those sections had not come into force on or before that date, and

(b) Nyaya Panchayats may be formed in accordance with those rules even before the date on which sections 27B and 27C come into force so as to enable them to function as from that date.]

27D. *Formation of benches of Nyaya Panchayat.*—(1) Subject to the provisions contained in section 27F and to the rules made under sub-section (2), the Chairman of a Nyaya

1. Inserted and deemed to have been inserted from 28-10-1960 by Section 8 of Rajasthan Act No. 10 of 1961 published in Rajasthan Gazette, Extra. Part IV-A, dated 4-4-1961.

Panchayat shall, for the hearing and disposal of suits and cases coming up before such Nyaya Panchayat under and in pursuance of the provisions of this Chapter, form benches, each bench to consist of any three members whether or not inclusive of the Chairman himself.

(2) The formation of benches under sub-section (1), the hearing of part-heard cases, time and place at which the Nyaya Panchayat shall sit, the conduct of its business, the mode of the disposal of such business, the method of distribution, transfer and re-transfer of work among the benches, the procedure to be followed and such other matters as the State Government may consider necessary shall be governed and regulated by rules made in this behalf by the State Government.

Comments

All members of bench to give judgement.—

This section provides for the formation of benches of the Nyaya Panchayats. It is not necessary for the Chairman to form benches in each case, but where a bench is formed, the decision in the case is to be taken by all the Panchas constituting the bench and not by some Panchas only though evidence may be taken by some of the Panchas only (Lahore Vs. Civil Judge Bharatpur 1964 RLW P. 187.)

27.E Transfer of pending file to Nyaya Panchayat.—
All suits and cases relatable to a Nyaya circle, pending before a Panchayat on the date on which a Nyaya Panchayat is constituted therefor, shall stand transferred to such Nyaya Panchayat.

27F. Hearing by members of Nyaya panchayat.—(1) No member of a Nyaya Panchayat shall hear or dispose of any suit or case arising in the Panchayat circle of the Panchayat which elected him.

(2) No member of a Nyaya Panchayat, who is a party to, or is personally interested in, any suit or case, shall hear or dispose of such suit or case.

(3) Every party to a suit or case shall be entitled to object, at the earliest opportunity, to not more than one member without being required to state the grounds of his objection, and such member shall thereupon abstain from sitting on the Nyaya Panchayat during the hearing of such suit or case.

(4) The trial of a suit or case by a bench of the Nyaya Panchayat shall not be invalid by reason merely that some of the members of that bench were not present at any hearing thereof.

27G. Staff for Nyaya Panchayats.—(1) The Chairman of every Nyaya Panchayat may, with the approval of the Officer-in-Charge of Panchayats, appoint on the prescribed conditions of service such staff as may be considered necessary.

(2) With the like approval and with the consent of the Panchayat concerned the Chairman of a Nyaya Panchayat may direct that the Secretary of the Panchayat within the limits of whose jurisdiction the sitting of such Nyaya Panchayat or a bench thereof is held shall act, on such terms as may be specified in the direction, as nyaya lipik for the purpose of recording the proceedings and decisions of such Nyaya Panchayat and performing such other duties as may be specified.

27H. Member of Nyaya Panchayat to be public servants.—(1) Every member including the Chairman, and every officer and servant, of a Nyaya Panchayat shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860.)

(2) The provisions of the Judicial Officers Protection Act, 1850 (Central Act 18 of 1850) shall apply to every Nyaya Panchayat and to every member thereof while acting Judicially.]

Criminal.

28. *Criminal jurisdiction.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898, and subject to the provisions of this Act, ¹[a Nyaya Panchayat] shall have jurisdiction concurrent with that of the Criminal Courts within the ²[Nyaya Circle] for which it has been ³[× × ×] constituted, for the trial of, and shall take cognizance of, any offence and abetment of or attempt to commit, any offence specified in the first Schedule :

Provided that no such cognizance shall be taken by a Panchayat of any case in which the accused—

- (i) has been previously convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years or upwards; or
- (ii) has been previously sentenced for any offence to like imprisonment for a like term; or
- (iii) has been previously sentenced by any Panchayat ⁴[or Nyaya Panchayat] for theft or for dishonestly receiving stolen property; or
- (iv) is ⁵[× × ×] a registered habitual criminal; or
- (v) has been bound over to be of good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1898;

1. Substituted by section 20 (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-1960,

2. Substituted by Section 20 (b) *ibid.*

3. Omitted by section 20 (c) *ibid.*

4. Inserted by section 20 (d) *Ibid.*

5. Omitted by Section 20 (e) *ibid.*

Provided further that the State Government may, on its own motion or on the recommendation of the '[Officer-in-Charge of Panchayats] exclude, by notification in the '[official Gazette,] the jurisdiction of any '[Nyaya Panchayat] in respect of any of the offences specified in the First Schedule.

29. *Panchayat before which case to be instituted.*—Every case under this Act shall be instituted in the '[Nyaya Panchayat within the local limits of whose jurisdiction] the offence was committed.

30. *Penalties.*—A Nyaya Panchayat shall not be competent to impose on any person convicted of an offence tried by it any sentence other than a sentence of fine not exceeding fifty rupees].

31. *Compensation to complainant.*—A '[Nyaya Panchayat] may direct that the whole or any part of the fine, when realised shall be paid as compensation to the complainant or person affected by the offence,

32. *Compensation to accused.*—If a '[Nyaya Panchayat] is satisfied after inquiry that the case brought before it is false, frivolous or vexatious, it may order the complainant to pay to the accused such compensation not exceeding five rupees as it thinks fit.

33. *Youthful offenders.*—Subject to the provisions of section 562 of the Code of Criminal Procedure, 1898, a

1. Substituted by section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extra., Part IV-A, dated 13-6-1959.

2. Substituted by section 4 of Rajasthan Act, No. 27 of 1957, published in Rajasthan Gazette, Extra., Part IV-A, dated 13-8-1957.

3. Substituted by section 20 (f) of Rajasthan Act No. 25 of 1960, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

4. Substituted by section 21 *ibid.*

5. Substituted by section 22 *ibid.*

6. Substituted by section 23 *ibid.*

¹[Nyaya Panchayat] may, instead of passing sentence, discharge after due admonition an offender who, in its opinion, was on the date of the commission of the offence, not over fifteen years of age.

34. *Recovery of fine.*—If any fine imposed or compensation ordered to be paid by a ¹[Nyaya Panchayat] remains unpaid for fifteen days, the ¹[Nyaya Panchayat] shall certify the fact of non-payment to the Sub-Divisional Magistrate having jurisdiction, who shall proceed to recover it as if it were a fine imposed by himself.

35. *Previous acquittal, etc.*—Where an accused person has been tried for and discharged, convicted or acquitted of any offence, no ¹[Nyaya Panchayat] shall take cognizance of such offence, or, on the same facts, of any other offence.

36. *Local inquiry and reports.*—(1) A ²[Nyaya Panchayat] may be directed by a competent Magistrate to make a local inquiry under section 202 of the Code of Criminal Procedure, 1898, in any case in which the offence was committed within the ³[local limits of the jurisdiction] of such ²[Nyaya Panchayat].

2. Any Magistrate before whom a prosecution 488 of the said Code is pending may ²[Nyaya Panchayat] in whose Circle the husband against whom the proceeding has been started residing to submit a report as to the amount of maintenance allowance which, having regard to the parties to such proceedings, should be paid. Such report shall form part of the record and may be taken into consideration in such proceeding without

1. Substituted by section 25

Rajasthan Gazette, Extra., Part IV-1

2. Substituted by section 24

3. Substituted by section 24

37. *Summary dismissal of complaint.*—A ¹[Nyaya Panchayat] may dismiss any complaint, if, after examining the complainant and taking such evidence as he produces, it is satisfied that the complaint is frivolous, vexatious or untrue.

Civil.

38. *Civil jurisdiction.*— Notwithstanding anything contained in the Code of Civil Procedure, 1908, and subject to the provisions of this Act, a ²[Nyaya Panchayat] shall have jurisdiction, ³[X] ⁴[within the Nyaya circle for which it has been constituted], for the trial of such suits as are described in section 39.

39. *Suits cognizable by Panchayats.*—⁵[(1)] The following suits shall be cognizable by a ⁶[Nyaya Panchayat] namely :—

- (i) suits for ascertained sums not exceeding ⁷[two hundred and fifty] rupees ;
- (ii) suits for damages not exceeding ⁷[two hundred and fifty] rupees for breach of contract not affecting immovable property ;
- (iii) suits for compensation for wrongly taking or injuring movable property not exceeding ⁷[two hundred and fifty] rupees in value ;
- (iv) suits for specific movable property or for the value thereof not exceeding ⁷[two hundred and fifty] rupees ;

1. Substituted by section 25 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, IV-A dated 24-8-1960.

2. Substituted by section 26 (i) *ibid.*

3. Omitted by section 26 (ii) *ibid.*

4. Substituted by section 26 (iii) *ibid.*

5. Renumbered by Section 27 (1) *ibid.*

6. Substituted by section 27 (1) (a) *ibid.*

7. Substituted by section 27 (1) (b) *ibid.*

Provided that no ¹[Nyaya Panchayat] shall take cognizance of any suit,—

- (a) by or against a minor or a person of unsound mind;
- (b) by or against ⁴[the Chairman or any member of the same Nyaya Panchayat or the Sarpanch or any Panch of the Panchayat of a Panchayat Circle lying within the same Nyaya Circle];
- (c) in respect of any dispute or matter in which a suit or application may be brought or made before a Revenue Officer; and
- (d) in respect of any matter directly and substantially in issue in a previously instituted suit between the same parties or those under whom they claim which is pending in or has been heard and finally decided by a court of competent jurisdiction or by a ¹[Nyaya Panchayat].

²[(2) With the approval of the High Court, the State Government may, by notification in the official Gazette, confer on any Nyaya Panchayat the jurisdiction to hear and dispose of suits of the nature specified in sub-section (1) of which the amount or value does not exceed five hundred rupees].

40. *Suits to include whole claim.*—(1) Every suit instituted in a ⁶[Nyaya Panchayat] shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the ¹[Nyaya Panchayat].

1. Substituted by section 27 (1) (a) of Rajasthan Act 25 of 1960,

2. Inserted by section 27 (2) *ibid.*

3. Substituted by section 28 (1) *ibid.*

(2) If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing any separate action whether before a '[Nyaya Panchayat] or a Civil Court for, or in respect of, the portion so omitted or relinquished.

41. *Place of institution.*—Every suit under this Act shall be instituted before the '[Nyaya Panchayat] within whose jurisdiction the defendant or any defendant in the suit resides at the time of the institution of the suit.

42. *Interest and instalments.*—(1) In suits for money, the '[Nyaya Panchayat] may, in its discretion, decree interest on the sum decreed at a rate not exceeding six per cent per annum from the date of the decree till the date of the payment.

(2) Where the decree is for payment of money, the '[Nyaya Panchayat] may direct that the payment of the amount decreed be made by instalments.

43. *Execution.*—(1) A decree or order passed by a '[Nyaya Panchayat] shall be executed by it in such manner as may be prescribed.

(2) If a '[Nyaya Panchayat] finds any difficulty in executing a decree or order, it may forward the same in the manner prescribed, to the Munsif² [or where there is no Munsif, to the Civil Judge] having jurisdiction, who shall thereupon execute the decree or order as if it were a decree or order passed by himself.

44. *Limitation.*—Every suit instituted before a '[Nyaya Panchayat] after the period of limitation prescribed therefor

1. Substituted by Section 28 (1) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A dated 24-8-1960.

2. Inserted by Section 28 (2) *ibid*.

in the second schedule shall be dismissed, even though limitation has not been set up as a defence.

General Provisions Relating to Civil and Criminal Jurisdiction

45. *Suits and cases how instituted.*—(1) Any person who wishes to institute a suit or a case under this Act before a ¹[Nyaya Panchayat] shall make a application orally or in writing to the ²[Chairman or in his absence to any member] and shall at the same time pay the prescribed fees.

(2) Where an application is made orally, the substance of the application will be recorded without delay in the prescribed manner and the signature or thumb impression of the applicant shall be taken thereon. Such record shall be signed by the ²[Chairman or in his absence by any member] who may be present.

(3) The Plaintiff or complainant shall, at the time of his making application, be informed of the time and place fixed for the meeting of the ¹[Nyaya Panchayat] at which his application would be heard, and directed to attend at that time and place.

46. *Issue of summons.*—(1) The ¹[Nyaya Panchayat] may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, dismiss the suit or complaint.

(2) Unless the suit or complaint be so dismissed the ¹[Nyaya Panchayat] shall, by summons or otherwise, require

1. Substituted by Section 29 (i) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Part IV-A, Extra. dated 24-8-60.

2. Substituted by Section 29 (ii) *ibid.*

the defendant or accused to attend and produce his evidence at such time and place as may be stated in the summons, and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place.

(3) If any defendant or accused person resides outside the ¹[Nyaya Circle] or if a defendant or accused person is, at the time of the issue of the summons, outside, such Circle, the summons may be forwarded, by the ²[Nyaya Panchayat] to the Munsif ³[or where there is no Munsif to the Civil Judge] or Magistrate ⁴[XXXX] concerned who shall cause it to be served as if it were a summons from his own court.

47. *Appearance in person or by representative.*—(1) The parties to a case triable by a ⁵[Nyaya Panchayat], shall appear personally before such ⁵[Nyaya Panchayat], Provided that the ⁵[Nyaya Panchayat] if it sees reasons to do so, may dispense with the personal attendance of the complainant or the accused and permit him to appear by agent and it shall also dispense with such personal attendance if the complainant or the accused is a person exempt from personal attendance in court.

(2) The parties to a suit triable by a ⁵[Nyaya Panchayat] may appear by agent.

48. *Parties must produce their own evidence.*—(1) The Parties shall produce their own evidence and witnesses, but the ⁶[Nyaya Panchayat] may, by sommons or otherwise, send for any person to appear and give evidence or to produce

1. Substituted by Section 30 (ii) (a) of Rajasthan Act No. 25 of 1960 published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-1960.

2. Substituted by Section 30 (ii) (b) *ibid.*

3. Inserted by *ibid.*

4. Omitted by Section 30 (ii) (e) *ibid.*

5. Substituted by Section 31 *ibid.*

6. Substituted by Section 31 *ibid.*

or cause the production of any document and such person shall be bound to comply with the instructions contained in the summons.

(2) The '[Nyaya Panchayat]' may refuse to summon a witness or to enforce a summon already issued against a witness when, in the opinion of the '[Nyaya Panchayat]', the attendance of such witness cannot be procured without an amount of delay, expense and inconvenience which, in the circumstances, would be unreasonable.

(3) The '[Nyaya Panchayat]' shall not require any person living beyond its jurisdiction to give evidence or to produce a document unless such a sum of money has been deposited as appears to the '[Nyaya Panchayat]' to be sufficient to defray reasonable expenses.

(4) If any person, whom the '[Nyaya Panchayat]' summons by a written order to appear or to give evidence or to produce any document before it, wilfully fails to obey such summons the '[Nyaya Panchayat]' may take cognizance of such disobedience, and after giving such person an opportunity to explain, may punish any person found guilty of such disobedience, with fine not exceeding ten rupees.

(5) No '[Nyaya Panchayat]' shall compel any person to give evidence or to disclose any communication, which such person cannot be compelled to give or to disclose under the provisions of the Indian Evidence Act, 1872.

²[48A. *Commissions*,—(1) Notwithstanding anything contained in section 48, no person who belongs to the female sex or who is exempted from personal appearance in a civil court under section 133 of the Code of Civil procedure, 1908,

1. Substituted by Section 81 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 24-8-1960.

2. Inserted by Section 82 *ibid*.

(Central Act 5 of 1908). shall be compelled to appear in person before a Nyaya Panchayat for the purpose of giving evidence.

(2) Any such person may be examined on commission in the prescribed manner.]

49 '[Nyaya Panchayat] to ascertain truth.—The provisions of the Code of Civil Procedure, 1908, the Code of Criminal Procedure, 1898, the Court Fees Act, 1870, the Indian Evidence Act, 1872, and the Indian Limitation Act, 1908, shall not apply to any proceedings before a '[Nyaya Panchayat] save to the extent provided in this Act or as may be prescribed but the '[Nyaya Panchayat] shall ascertain the facts of every suit or case before it by every lawful means in its power and thereafter make such decree or order as it may deem just. Such decree or order shall contain a brief statement of the sons thereof.

50. *Power to determine necessary parties.*—(1) The '[Nyaya Panchayat] shall add as parties to a suit any person or persons whose presence as such party or parties it considers necessary for a proper decision thereof, and the suit shall be tried as between the parties whose names are so added:

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with.

(2) In all cases when a new party appears under the proviso to sub-section (1), during trial of a suit he may require that the trial shall begin *de novo*.

(3) If a plaintiff or defendant in any suit dies before it has been finally decided and the right to sue still survives the

suit shall be proceeded with at the instance of or against the legal representatives of the deceased plaintiff or, deceased defendant, as the case may be, provided that an application in this behalf has been presented to the '[Nyaya Panchayat]' within thirty days of the death or within such further period as the '[Nyaya Panchayat]' may for sufficient cause allow.

51. *Adjournment.*—It shall be the duty of the '[Nyaya Panchayat]' to dispose of a suit or case as early as possible and adjournments shall be granted when absolutely necessary.

52. *Disposal of suits or cases in absence of parties concerned.*—(1) If the plaintiff or complainant fails to appear after having been informed of the time and place fixed for hearing, the '[Nyaya Panchayat]' may dismiss the suit or case.

(2) The '(Nyaya Panchayat)' may hear and decide a suit or case *ex parte* in the absence of the defendant or the accused, if he has been informed of the time and place for hearing:

Provided that no sentence shall be imposed by a '[Nyaya Panchayat]' on any accused person unless he has appeared either in person or by agent before it and the substance of his statement has been recorded,

(3) If after the service of summons upon him, an accused person fails to appear either in person or by agent the '[Nyaya Panchayat]' may apply to the Magistrate concerned who may compel the accused to appear in person before that '[Nyaya Panchayat]', as if it were the Magistrate trying the case.

(4) When an accused person has been under the preceed-

ing sub-section compelled to appear before a¹[Nyaya Panchayat] it shall forthwith take his statement.

(5) If a plaintiff does not appear and his suit is dismissed for default or the defendant fails to appear and an *ex parte* decree is passed against him such plaintiff or defendant may, within a period of one month from the date of such order or decree make an application for the restoration of the suit after setting aside the order of dismissal or *ex parte* decree, as the case may be, and the ¹[Nyaya Panchayat] may make an order restoring the suit as aforesaid; provided the applicant shows sufficient cause for his absence.

53. *Compromise of suit and compounding of cases.*—(1) Where it is proved to the satisfaction of a ¹[Nyaya Panchayat] that a suit has been agreed upon to be decided wholly or in part in accordance with any settlement, compromise or oath, the ¹[Nyaya Panchayat] shall order such settlement, compromise or oath to be recorded and shall decide the suit and pass a decree in accordance therewith :

Provided that no oath shall be in any form repugnant to justice or decency to affect any third person.

(2) A ¹[Nyaya Panchayat] may permit any case to be compounded, if such case is, according to the provisions of the Code of Criminal Procedure 1898, compoundable with or without permission of the court.

54. ²[X X X].

55. *Reference to the competent regular court.*—When any ¹[Nyaya Panchayat] having jurisdiction is of the opinion that any suit or case before it is of such a nature or of such intri-

1. Substituted by Section 33 of Rajasthan Act No. 25 of 1960, published in Rajasthan, Gazette, Extra. Part IV-A, dated 24-8-1960.

2. Omitted by Section 34 *ibid*.

cacy or importance that it ought to be tried by a regular court the ¹[Nyaya Panchayat] shall stay proceedings and send the suit or case to the nearest regular court of competent jurisdiction for trial.

56. *Cancellation of jurisdiction.*—²[(1) In relation to suits, the Munsif having jurisdiction over a Nyaya Circle or, where there is no such Munsif, the Civil Judge having such jurisdiction, and, in relation to cases, the Magistrate of the first class having jurisdiction over a Nyaya Circle, may at any time, for just and sufficient cause, on his own motion or otherwise, cancel the jurisdiction of any Nyaya Panchayat with respect to any suit or case or quash any proceedings thereof at any stage.]

(2) Where an order has been passed under sub-section (1) in respect of any suit or case, the same may be instituted in, or transferred to, the nearest ³[Nyaya Panchayat] for trial.

⁴[57. XXXXXX].

⁵[58. XXX].

⁶[59. *Appeals not to lie, revisional powers.*—(1) No appeal shall lie from any sentence, decree or order passed by a Nyaya Panchayat in any suit or case tried by it.

(2) On an application made by any of the parties to a suit or case tried by a Nyaya Panchayat or on his own motion—

1. Substituted by Section 35 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-8-1960.

2. Substituted by Section 36 (a)-*ibid.*

3. Substituted by Section 36 (b)-*ibid.*

4. Omitted by section 37-*ibid.*

5. Omitted by section 38-*ibid.*

6. Substituted by section 39 *ibid*

(a) a munsif having jurisdiction over the Nyaya Circle or, where there is no such Munsif, a Civil Judge having such jurisdiction may, in relation to any such suit, and

(b) a Magistrate of the first class having jurisdiction over the Nyaya Circle may, in relation to any such case,

call for and examine the record or proceeding of a Nyaya Panchayat for the purpose of satisfying himself as to the legality or propriety of any decree or order or sentence passed or as to the regularity of the proceedings held by such Nyaya Panchayat.

(3) If it appears to the Munsif, Civil Judge or Magistrate, as the case may be, that any decree, order or sentence passed or any proceeding taken by a Nyaya Panchayat should be modified, cancelled or reversed, he may pass such order as he thinks just.

[(3A) All appeals pending before Tehsil Panchayats at the commencement of sections 37 and 38 of the Rajasthan Panchayat (Amendment) Act, 1960 (Rajasthan Act 25 of 1960) shall stand transferred:—

(i) if they had arisen out of a suit, to the Munsif having jurisdiction or, where there is no such Munsif, to the Civil Judge having jurisdiction, and

(ii) if they had arisen out of a case, to the Magistrate of the first class having jurisdiction, and shall be disposed of as such by the Munsif, Civil Judge or Magistrate in accordance with law and, in doing so, he may confirm, reserve or modify the decision or order appealed from.]

1. Inserted and deemed to have been inserted from 15-12-1960 by sec. 9 (a) of Rajasthan Act No. 10 of 1961 published in Rajasthan Gazette Extraordinary Part IV-A dated 4-4-1961

(4) The order of the Munsif, Civil Judge or Magistrate, as the case may be, passed under sub-section (3) ¹[or sub-section (3A)] shall be final.]

60. *Decrees or orders passed are not to be altered.*—Subject to the provisions of this Act, a ²[Nyaya Panchayat] shall have no power to cancel, revise or alter any decree, judgment or order passed by it :

Provided that clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the ²[Nyaya Panchayat] either on its own motion or on the application of any of the parties.

61. *Power of inspection.*—A ²[Nyaya Panchayat] or any ³[member] thereof duly authorised in that behalf may, for ascertaining facts conducive to the proper disposal of a case, or reference, enter upon any land at any time between sunrise and sun-set after giving 24 hours notice to the occupier of or when there is no occupier, to the owner of such land. If the land in occupation of persons who according to the custom of the country do not appear, in the public, due notice shall be given to them to withdraw.

62. *Seal of ⁴[Nyaya Panchayat].*—Every ⁴[Nyaya Panchayat] shall have a seal bearing its name, the name of the ⁵[XXX] District in which it is established, and shall therewith seal all decrees, orders, proceedings, processes, receipts and copies issued by it.

1. Inserted and deemed to have been inserted from 15-12-1960 by Sec. 9 (b) of Rajasthan Act No. 10 of 1961 published in Rajasthan Gazette, Extraordinary Part IV-A dated 4-4-61

2. Substituted by Section 40 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette Extraordinary Part IV-A dated 24-8-60,

3. Substituted by section 41 *ibid.*

4. Substituted by section 42 (i) *ibid.*

5. Omitted by section 42 (ii) *ibid.*

CHAPTER V

Panchayat Fund and Budget.

63. *Panchayat Fund*.—(1) There shall be established and maintained a Panchayat Fund for each Panchayat, into which shall be paid and credited —

- (a) grants from the State Government;
- (b) all sums realised as court fees or by sale of court fee stamps, used in suits and cases tried and disposed of by ¹[a Nyaya Panchayat], and supplied by the State Government at cost price with the word 'Panchayat' super-imposed thereon in red;
- (c) all sums realised by way of fines in cases and proceedings tried and disposed of by ¹[a Nyaya Panchayat];
- (d) the proceeds of taxes, tolls and fees imposed under this Act;
- (e) the balance, if any, standing to the credit of any Panchayat or Panchayats, for the area within the jurisdiction of the Panchayat constituted under this Act previously in existence under any law repealed by section 93;
- (f) all sums ordered by a court or a Department to be placed to the credit of Panchayat Fund;
- ²[(g) X X X X]
- (h) sums contributed to the Panchayat fund by any District Board or other local authority;

1. Substituted by section 43 (i) (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra Part IV-A dated 24-8-1960

2. Omitted by section 43 (i) (b) *ibid*

- (i) all sums received by way of loan or gift;
- (j) all sums received by the Panchayat from any individual or corporation or the State Government under any law;
- (k) such portion of the rent or other proceeds of nazul property as the State Government may direct to be placed to the credit of Panchayat fund;
- (l) all incomes from cattle pond; and
- (m) such other sums as may be assigned to the Panchayat fund by any special or general order of the State Government:

[Provided that the sums mentioned in clauses (b), (c) and (f) shall be distributed by the Officer-in-charge of Panchayats among the different Panchayats of the Nyaya Circle in such proportion as he may determine.]

(2) The Panchayat fund shall be lodged in a Government Treasury or sub-treasury or in a Post Office Savings Bank or in a Scheduled Bank approved by the State Government or in such other manner as may be prescribed, and shall, subject to the general control of ²[X X X] the ³[Officer-in-charge of Panchayats], be administered by the Panchayat.

(3) A Panchayat may, from time to time, with the approval of the State Government, invest any portion of its surplus funds in any securities approved by the State Government.

1. Added by section 43 (i) (c) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. part IV-A, dated 24-8-1960.

2. Omitted by section 43 (ii) *ibid*.

3. Substituted by section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extra. Part IV-A, dated 13-6-1959.

(4) The Panchayat funds shall be applied—

(i) to the payment of charges and expenses incidental to the several matters under the control and administration of the Panchayat, and

(ii) in such proportion as may be prescribed to the payment of the expenses of the ¹[Nyaya Panchayat] having jurisdiction:

Provided that nothing in this sub-section shall affect any obligation of a Panchayat arising from a trust legally imposed upon or accepted by it.

(5) To defray the current expenses of a Panchayat ²[and a Nyaya Panchayat] such sums as the ³[Panchayat Samiti] may in each case deem sufficient may be kept ⁴[separately with the Sarpanch and the Chairman respectively] by way of imprest money.

64. *Taxes which may be imposed*,—(1) Subject to the prescribed rules and any orders made by the State Government on this behalf, a Panchayat may ⁵[X X X] impose one or more of the following taxes, namely :—

⁶[(a) X X X

(b) X X X

(c) X X X

(d) X X X]

1. Substituted by section 43 (iii) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 24-8-1960.

2. Inserted by section 43 (iv) (a) *ibid*.

3. Substituted by section 4 (xvi) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 9-9-59.

4. Substituted by section 43 (iv) (b) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-8-1960.

5. Omitted and shall be deemed always to have been omitted by section 2 (i) of Rajasthan Act No. 18 of 1958, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 14-4-1958

6. Omitted by section 4 (xvii) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 9-9-59.

- (e) a tax on buildings owned by persons ¹[× × ×] not exceeding such rate as may be prescribed;
- ²[(f) an octroi on animals or goods or both brought within the Panchayat Circle for consumption or use therein;]
- (g) vehicle tax except on those vehicles which are used for the purpose of cultivation;
- ³[(h) a pilgrim tax ;]
- (i) a tax for arranging the supply of drinking water within the Panchayat Circle ; and
- ⁴[(j) any other tax which (the State legislature has, under the Constitution, power to impose in the State and (which) has been sanctioned by the State Government.]

¹[(2) X X X]

(3) The taxes under sub-section (1) shall be imposed, assessed and realised in such manner and paid or realised at such times, as may be prescribed.

(4) The State Government may, by notification in the ⁵[Official Gazette] require any Panchayat to impose, subject to the provisions of ⁶[sub-section (3)], any of the taxes specified in sub-section (1) from such date and at such rates as may be specified in the notification.

1. Omitted by Section 4 (xvii) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra. Part IV-A, dated 9-9-59.

2. Omitted by section 2 of Rajasthan Act No. 24 of 1957, published in Rajasthan Gazette Extra. Part IV-A, dated 12-7-1957 and reinserted and shall be deemed always to have been inserted by Rajasthan Act No. 18 of 1958 published in Rajasthan Gazette, Extra. part IV-A, dated 14-4-1958.

3. Substituted by Section 4 (xvii) (a) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra. Part IV-A, dated. 9-9-59.

4. Inserted by section 44 (i) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 24-8-1960.

5. Substituted by section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 13-8-1957,

6. Substituted by section 44 (ii) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra. Part IV-A, dated 24-8-1960.

(5) While any notification under sub-section (4) is in force, the Panchayat shall proceed to impose the tax or taxes therein specified as if a resolution of the Panchayat had been passed for the imposition thereof and it shall not be lawful for it to abandon, modify or abolish any tax so imposed :

Provided that the State Government may at any time cancel any such requisition or modify it in any respect :

Provided further that when any tax has been imposed upon the requisition of the State Government under sub-section (4), any other tax of a like nature previously imposed by the Panchayat without such requisition shall cease to be levied and realised from the date from which the tax imposed upon the said requisition is to be levied and realised.

Comments

Imposition of Taxes Procedure to be strictly followed—

The Rules provide for the procedure of imposition of taxes. These should be strictly followed before imposition of taxes and any deviation from the procedure prescribed in this behalf will render the taxes liable to be struck-down by the Courts.

✓[64A. *Tax on commercial crops.*—A Panchayat may also impose and levy in the prescribed manner a tax on commercial crops.

Explanation.—For the purposes of this section, “Commercial crops” are chillies, cotton, sugarcane, zeera and ground-nut.]

²[64B. *Validation of levy of certain taxes.*—Notwithstanding anything contained in sub-section (3) of section 64 or in any other provision of this Act or in the rules made under

1. Inserted by Section 4 (xviii) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 9-9-1959.

2. Inserted by section 45 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette Extraordinary, Part IV-A, dated 2-8-1960.

this Act or in any judgment or decision of any court and notwithstanding any error, omission or defect in the imposition or levy thereof, all taxes imposed by Panchayats after the commencement of this Act shall be deemed to have been validly imposed and levied as from the dates from which they are being actually recovered and collected even though such dates may not have been specified at the time of such imposition and levy.]

✓65. *Special Tax and Community service.*—A Panchayat may, [XXXX] impose a special tax on the adult male members of the Panchayat area for the construction of any public work of general utility for the inhabitants of the said area :

Provided that it may exempt any member from payment of this tax in lieu of doing voluntary labour or having it done by another person on his behalf.

²[65A. *Power of Panchayat to charge fees.*—(1) A Panchayat may charge fees for any licence or permission granted or given by it for making any temporary erection or for putting up any projection or for the temporary occupation of any public or other land vested in the Panchayat for any service rendered by it or in respect of any duty performed by it under the provisions of this Act.

(2) Such fees shall be charged at such rates and in such manner as may be provided for in any rules made under this Act or in any bye-laws made by the Panchayat and it shall be lawful for the Panchayat to lease the levy of any such fees by public auction.]

³[65B. *Appeal from assessment.*—(1) Any person aggrieved by the assessment, levy or imposition of any tax or

1. Omitted by section 46 of Raj. Act No. 25 of 1960.

2. Inserted by section 4 (xix) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 9-9-1959.

3. Inserted by section 47 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-8-1960.

fees under this Act may appeal therefrom to the State Government.

(2) An appeal under sub-section (1) may be preferred within ninety days from the date of the assessment, levy or imposition appealed from and the decision of the State Government thereon shall be final.

65 C. *Power to suspend levy.*—The State Government may suspend the levy or imposition of any tax or fee and may at any time rescind such suspension.]

[65 D. *Enforcement of compulsory labour for construction of work of general public utility.*—(1) Notwithstanding anything contained in this Act or any other enactment for the time being in force, a Panchayat may, by resolution passed at a special meeting thereof by a majority of a not less than two thirds of the whole number of its Prnchas including the Sarpanch, direct, in respect of any work of general public utility meant exclusively for its panchayat circle as a whole, which the Panchayat proposes to undertake, that such work shall be constructed with the manual labour of the adult male residents of the Panchayat Circle, each such adult male resident being required to render such labour in relation to such work for such number of days as the Panchayat may determine in the prescribed manner :

Provided that no individual shall be required to render such labour in relation to any nuber of such works, taken together, for a total period exceeding twelve days in a year in the aggregate.

(2) In making the direction under sub-section (1) the Panchayat shall have the power.—

- (i) to exempt such adult male residents of the Panchayat Circle, as are blind or lame or in any way incapacitated physically or mentally or found to be medically unfit for the purpose, from rendering such manual labour, and
- (ii) to recover from any adult male resident of the Panchayat Circle, required to render manual labour as aforesaid, a money equivalent thereof, calculated on the basis of the rate of wages current in the locality for like labour, for the whole of the period for which he is required to render but does not render manual labour in accordance with sub-section (1).

(3) For the purpose of this section a person who has attained or will attain the age of twenty one years on the date on which he is required to render manual labour shall be deemed to be an adult.

(4) No resolution passed under sub-section (1) shall come into operation until it has been submitted in the prescribed manner and after observing the prescribed formalities, to, and has been approved by the State Government in this behalf.

(5) The provisions of this section are in addition to, and not derogatory or exclusive of, the provisions contained in 65 and the rules made thereunder].

66. *Realisation of dues, custody of funds and accounts.*—The Panchayat shall, in the prescribed manner, arrange for realisation of Panchayat taxes and dues, for the custody of its funds and for the maintenance of accounts.

[66A. *Powers of Panchayat Samiti to require in income.*—If in the opinion of the Panchayat Samiti

1. Inserted by section 48 of Rajasthan Act No. 25 of 1970, published in Gazette, Extraordinary, Part IV-A, dated 24-9-1970.

(4) The Panchayat Samiti shall send a report of its decision to the Collector within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (2), or in the event of the Panchayat failing to give such intimation or explanation on the expiry of the period of two months referred to in sub-section (2), and shall forward a copy of such report to the Panchayat. If the Panchayat samiti holds that any defects or irregularities have not been removed or remedied, the Panchayat Samiti shall state in the report whether in its opinion the defects or irregularities can be regularised and if so, by what method and, if they do not admit of being regularised, whether they can be condoned and, if so, by what authority. The Panchayat Samiti shall also state whether the amounts to which the defects or irregularities relate should in its opinion be recovered as hereafter provided.

(5) The Collector may, after considering the report of the Panchayat Samiti and after making such further enquiry as he considers necessary, disallow any item which is contrary to law and order recovery of the same from the person making or authorising the making of the payment, and,—

- (a) if the person from whom the payment is ordered, be a Panch or Sarpanch, after giving him a reasonable opportunity of showing cause to the Collector, if the illegal payment, loss or expenditure has been a direct consequence of the neglect on the part of the Panch or Sarpanch, the Collector shall by order direct the Panch or Sarpanch to pay the amount on a fixed date the amount of the payment by the Panchayat for such illegal payment, mis-application, or

- (b) if such person be not a Panch or Sarpanch, the Collector shall, after taking his explanation, direct by order in writing that such person shall pay to the Panchayat by a fixed date the amount ordered to be recovered from him, and,

in either of the above cases, if the amount is not so paid the Collector shall recover the same as an arrear of land revenue and credit it to the Panchayat fund.

(6) Any person aggrieved by any order of recovery made by the Collector under this section may, within one month from the receipt by him of the decision of the Collector, apply to the District Court to modify or set aside such order and that court, after taking such evidence as it thinks necessary, may confirm, modify or remit such recovery and make such order as to costs as it thinks proper in the circumstances.

(7) The Panchayat Samiti may by order in writing direct that all or any of its functions under sub-sections (3) and (4) may also be performed by one of its standing committees.]

68. *Annual Budget.*—(1) Subject to such rules as may be prescribed, every Panchayat shall prepare a budget of its estimated receipt and expenditure for the next official year and forward it to the '[Panchayat Samiti.]

(2) Every such budget shall, after scrutiny and such modifications, if any, as may be necessary be sanctioned by the '[Panchayat Samiti,] within a period of two months of its receipt.

(3) No expenditure, which is not provided for in the budget sanctioned as aforesaid, shall be incurred without the previous sanction of the '[Panchayat Samiti].

(4) In sanctioning the budget under sub-section (2) and any extra expenditure under sub-section (3) the '[Panchayat Samiti] shall be governed by such general or special directions as the State Government may from time to time issue in that behalf.

CHAPTER VI

Control.

69. *Government to be chief controlling authority.*—The State Government shall be the chief controlling authority in respect of all matters relating to the administration of Panchayats and ¹[Nyaya Panchayats.]

²[70. *Delegation of powers.*—The State Government may, by notification in the Official Gazette, delegate :—

- (a) all or any of its powers under this Act to any officer or authority subordinate to it, and
- (b) all or any of the powers of the officer-in-charge of Panchayats under this Act to any other officer or authority.]

³[70A. *Supervision of Panchayat Samiti.*—Except in matters relating to the exercise ⁴[X X] of ⁵[X X] civil and criminal jurisdiction, a Panchayat Samiti having jurisdiction over the Panchayat Circle shall exercise general supervision over the affairs of ⁶[its Panchayat] and any directions issued by the Panchayat Samiti shall be complied with by the Panchayat.]

⁶[70B. *Power of review by Government.*— (1) The State Government may of its own motion at any time or on an

1. Substituted by section 50 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

2. Substituted by section 51 *ibid*.

3. Inserted by Section 4 (xxi) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 9-9-1959.

4. Omitted by section 52 (i) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

5. Substituted by section 52 (ii) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

6. Added and shall be always deemed to have been added by sec 3 of Rajasthan Act No. 20 of 1964, published in Raj. Gazette, Part IV-A Ext. dated 7-9-1964.

application received from any person affected within ninety days of the passing of an order under sub-section (4) of section 17 or the proviso thereto, as the case may be, review any such order if it was passed under any mistake, whether of law or of fact, or in ignorance of any material fact.

(2) Every application preferred under sub-section (1) shall bear a court fee of five rupees.]

71. *Power to provide for performance of duties in default of Panchayat.*—(1) On complaint made or otherwise, that a Panchayat has made default in performing any duty imposed upon it by or under this Act and if satisfied after due inquiry that a Panchayat has been guilty of the alleged default, the 1[Officer-in-charge of the Panchayats] may by an order in writing fix a period for the performance of that duty. Such order shall be forth with Communicated to the Panchayat and a copy thereof shall be forwarded to the 2[Panchayat Samiti].

(2) If that duty is not performed within the period so fixed the 1[Officer-in-charge of Panchayats] may appoint some persons to perform it, and direct that the expense incurred in the performance of such duty with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Panchayat.

(3) If the expense and the remuneration are not so paid, the 1[Officer-in-charge of Panchayats] may make an order directing the person having the custody of the balances of the Panchayat fund to pay the expense and the remuneration, or such part thereof as is possible, from that balance.

1. Substituted by section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 13-6-1959.

2. Substituted by section 53 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

72. *Extraordinary power of* ²[State Government] *in cases of emergency.*—(1) In cases of emergency, the State Government may provide for the execution of any work, or the doing of any act, which a Panchayat is empowered to execute and the immediate execution or doing of which is, in its opinion, necessary of the safety of the public. The State Government shall forthwith communicate its order with the reasons thereof to the Panchayat, forward copies thereof to the ¹[Officer-in-charge of Panchayats] and the ³[Panchayat Samiti], and direct that expense of executing the work or the doing of the act, with a reasonable remuneration to the person appointed to execute or to do it shall be forthwith paid by the Panchayat.

(2) If the expense and the remuneration are not so paid, the ¹[Officer-in-charge of Panchayats] may make an order directing the person having the custody of the balance of the Panchayat fund to pay the expense or remuneration or such part thereof as is possible from the balance.

⁴[73. *Power to dissolve or supersede Panchayat in certain cases.*—(1) If at any time the State Government is satisfied that a Panchayat is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or by or under any other law for the time being in force, or has exceeded or abused its powers thereunder, or persistently disobeys the lawful orders of the State Government or the Panchayat Samiti or the Officer-in-charge of Panchayats, the State Government may, after giving such Panchayat an opportunity of being heard, and after consulting the Zila Parishad concerned by an order published in the Official Gazette,—

1. Substituted by section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 13-6-1959.

2. Substituted by section 4 of Rajasthan Act No. 27 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 13-8-1957.

3. Substituted by section 53 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

4. Substituted by section 54 *ibid.*

- (a) dissolve such Panchayat as from a date to be specified in the order, or
- (b) supersede such Panchayat for a period not exceeding one year from a specified date.

(2) In calculating the period supersession specified under clause (b) of sub-section (1), the period spent in the prosecution and disposal of any petition or proceeding challenging the validity of the order of supersession in any court shall be excluded.

(3) When a Panchayat is dissolved under sub-section (1), the following consequences shall ensue:—

- (a) the Sarpanch and all Panchas thereof shall, on the date specified in the order of dissolution vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment or re-co-option;
- (b) the Panchayat shall be reconstituted before the date specified in the order of dissolution by the election, co-option or appointment, in accordance with the provisions of this Act, of the Sarpanch and Panchas as if the term thereof will be expiring on the date just preceeding such date and shall start functioning on such date; and
- (c) if it shall not be possible to re-constitute the Panchayat so as to enable it to start functioning on such date because of the prosecution of any petition or proceeding challenging the validity of the order of dissolution in any court or due to any other sufficient cause,—
 - (i) all property vested in such Panchayat shall, during the period from the date specified under

clause (a) of sub-section (1) till the Panchayat reconstituted under clause (b) of this sub-section starts functioning, vest in the State Government, and

(ii) all powers and duties of such Panchayat shall, during such period, be exercised and performed by an administrator to be appointed by the State Government from time to time.

(4) When a Panchayat superseded under sub-section (1), the following consequences shall ensue:—

(a) the Sarpanch and all Panchas of the Panchayat shall forthwith vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment or re-co-option ;

(b) all powers and duties of such Panchayat shall, during the period of supersession specified under clause (b) of sub-section (1) as calculated in accordance with sub-section (2), be exercised by an administrator to be appointed by the State Government from time to time.

(c) all property vested in such Panchayat shall, during such period, vest in the State Government; and

(d) the Panchayat shall be re-constituted in accordance with the provision of this Act before the expiry of such period and shall start functioning immediately upon such expiry.]

¹[73A. *Term of office of Panchayats re-constituted upon supersession or dissolution.*—Notwithstanding anything contain-

1 Inserted and deemed to have been inserted from 28-10-1960, by section 11 of Raj. Act No. 10 of 1961 published in Rajasthan Gazette, Extraordinary part IV-A dated 4-4-1961.

ned in section (7) or in any other provision of this Act the term of office of a panchayat re-constituted upon supersession or dissolution of an earlier Panchayat under section 73 shall be the residue of the term of the superseded or dissolved Panchayat].

¹[74. *Appointment of officers and staff by Government.*—For the discharge of such functions in regard to the administration of Panchayats as are provided for in this Act or as may be prescribed thereunder, the State Government may appoint an Officer-in-charge of Panchayats with such designation as it may from time to time notify and such other subordinate officers and staff as the State Government may deem necessary.]

75. *Prohibition of certain proceedings.*—(1) The ²[Officer-in-charge of Panchayats] or any other officer specially empowered in this behalf by the State Government, on information received or on his own initiative, may, by order in writing, prohibit the execution or further execution of a resolution or order passed or made under this Act or any other enactment, by a Panchayat, a ³[Panchayat Samiti] or any officer or servant of either, if in his opinion such resolution or order is of such a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed, or danger to human life, health or safety, or riot or affray ⁴[or is unlawful]. It may prohibit the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

1. Substituted by section 4 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 13-6-1959.

2. Substituted by Section 5 *ibid.*

3. Substituted by section 55 (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

4. Inserted by Section 55 (b) *ibid.*

(2) Where an order is made under sub-section (1), a copy thereof with a statement of the reasons for making it, shall forthwith be forwarded by the ¹[Officer-in-charge of Panchayats] or aforesaid officer to the State Government which may, after calling for an explanation from the Panchayat, ²[Panchayat Samiti] or the officer or the servant thereof and considering the explanation, if any, so made, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Panchayat, the ²[Panchayat Samiti] or any officer or servant of either, is so required by the officer making such order, to take any action which it would have been entitled to take if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order, of which the further execution is prohibited.

³[76. × × ×].

77. *Inspection and enquiry by* ⁷[State Government].—The State Government ⁴[or any officer generally or specially authorised by the State Government in this behalf] may—

(a) ⁶[inspect or] cause to be inspected any immovable property owned and used or occupied by a Panchayat or ⁵[Nyaya Panchayat] or any work in progress

1 Substituted by Section 4 of Rajasthan Act No 30 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 12-6-1959.

2. Substituted by section 55 (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-60.

3. Omitted by section 56 (b) of Rajasthan Act, No. 25 of 1960 published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

4. Inserted by section 57 (a) *ibid*.

5. Substituted by section 57 (vii) (b) *ibid*.

6. Inserted by section 57 (c) *ibid*.

7. Substituted by Section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 30-8-1957.

under the direction of such panchayat or ¹[Nyaya Panchayat];

(b) by an order in writing call for and inspect a book or document in the possession or under control of a Panchayat or a ¹[Nyaya Panchayat];

(c) likewise require a Panchayat or a ¹[Nyaya Panchayat] to furnish such statements, reports or copies of documents relating to the proceedings or the duties of such Panchayat or ¹[Nyaya Panchayat] as it thinks fit;

(d) record in writing for the consideration of a Panchayat or a ¹[Nyaya Panchayat] any observation which it thinks proper in regard to the proceedings or the duties of such Panchayat or ¹[Nyaya Panchayat];

(e) institute an enquiry ²[against the Sarpanch, Up-Sarpanch or any Panch of a Panchayat or against the Chairman or any member of a Nyaya Panchayat or] in respect of any matter relating to a Panchayat or a ¹[Nyaya Panchayat]; and

³[(f)×××××]

CHAPTER VII

Miscellaneous.

78. *Public servant.*—¹[× ×]. The Sarpanch, every Panch, every officer and servant of a Panchayat ²[× × × ×] shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

³[X X X X].

Comments

Protection to Sarpanch etc. in the matter of prosecution.—

The Sarpanch, every Panch, every officer and servant of a Panchayat is deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. A Panch, Sarpanch Up-Sarpanch is removable only by the Government under sub-section (4) of section 17 of the Act, and hence a Sarpanch or a Panch or an Up-sarpanch shall be deemed to be a public servant not removable save by the sanction of the State Govt. They are therefore, entitled to protection under section 197 of the Cr. P.C. (Pukhraj Vs. Ummaid Ram, 1964 RLW 238).

⁴[78A. *Administration report.*— Every Panchayat shall submit to the Collector, and every Nyaya Panchayat shall submit to the District and Sessions Judge, a report on its administration for each year as soon as may be after the close of each year in such form, with such details and through such officer or authority as may be prescribed.]

79. *Suits, etc., against Panchayats.*—(1) No suit, prosecution or other legal proceedings shall be maintainable against any Panchayat or ⁵[Nyaya Panchayat] or against any Sarpanch, Panch ⁶[Chairman, member] officer or servant thereof or against any person acting under the direction of

1. Omitted by section 58 (a) of Rajasthan Act No. 25 of 1960 published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 21-5-1960.

2. Omitted by section 58 (b) *ibid.*

3. Inserted by section 59 *ibid.*

4. Substituted by section 60 (a) *ibid.*

5. Inserted by section 60 (b) *ibid.*

any such Panchayat, ¹[Nyaya Panchayat], Sarpanch, Panch ²[Chairman, member] officer or servant, in respect of anything lawfully and in good faith done under this Act or any rule or bye-law made thereunder.

(2) No suit against a Panchayat or a ¹[Nyaya Panchayat] or against a Sarpanch, Panch ²[Chairman member] officer or servant thereof or against any person acting under the direction of such Panchayat, ¹ [Nyaya Panchayat], Sarpanch, Panch, ²[Chairman, member] office or servant, for anything done or purporting to be done under this Act in its or his official capacity,—

- (a) shall be instituted until the expiration of two months next after notice in writing stating the cause of action, the name and the place of abode of the intending plaintiff and the nature of the relief which he claims, has been, in the case of a Panchayat or ¹[Nyaya Panchayat] delivered or left at its office and in the case of a Sarpanch, Panch, ²[Chairman, member], officer, servant or person as aforesaid delivered to him or left at his office or usual place of abode and the plaint in such case shall contain a statement that such notice has been so delivered or left ; or
- (b) shall be commenced otherwise than within six months next after the accrual of the alleged cause of action.

Comments

1. Notice Mandatory—

This section is similar to section 80 of the Civil Procedure Code, 1908 and no suit against a Panchayat can be brought without first serving upon it a notice of two months in respect of the proposed action. Notice is necessary even in respect of threatened acts, i.e. even in Injunction suits.

1. Substituted by section 60 (a) of Raj Act No. 25 of 1960 published in Rajasthan Gazette, Extra., Part IV-A, dated 24-8-1960.

2. Inserted by section 60 (b) *ibid*.

2. Special period of limitation—

A special period of limitation has been prescribed by this section in respect of suits against the Panchayats and the normal period of limitation in such cases has been cut down to six months. Hence no suit, whether in respect of a contract or a tort can be brought against a Panchayat after six months of the accrual of cause of action.

3. Special period of limitation available only in respect of lawful acts and orders:—

The special period of limitation and the provision of notice provided in this section is applicable only in respect of such acts or orders which are lawful and have been done or passed in good faith. Special period of limitation or the protection of notice under this section cannot be claimed in respect of any unlawful or ultra-vires act. (Municipal Board Bhilwara Vs. Bhura Lal, 1964 RLW 504).

It was further held that the acts which are opposed to the Act or for which the act furnishes no authority to the local body and which are wholly ultra-vires and illegal cannot be saved under the special period of limitation, which is available only for acts lawfully and in good faith done under the Act. In this case, the Municipality had imposed certain levies, in the nature of Octroi, which were challenged by the respondent. The Municipality claimed the special period of limitation in defence. The High Court held that as the levy was wholly ultra vires and illegal, the special period of limitation would not apply to the case.

Similarly, the mandatory provision of notice will also not be applicable in a suit challenging a wholly ultra-vires or illegal act.

It was further laid down by the Division Bench of our High Court that 'suit' in this provision means suit of any nature whatsoever whether contractual or tortious.

80. *Liability of Panchas.*—(1) The Sarpanch and every Panch shall be liable to the Panchayat for the loss, waste or mis-application of any money or other property belonging to the Panchayat if such loss, waste or mis-application is a direct consequence of his neglect or mis-conduct while a Sarpanch or Panch.

(2) No suit shall be instituted by a Panchayat under sub-section (1) against any Sarpanch or Panch except with the previous sanction of the ¹[Officer-in-charge of Panchayats.]

(3) From the order of the ¹[Officer-in-charge of the Panchayats] under sub-section (2) sanctioning or refusing to sanction the institution of a suit, the Sarpanch or Panch, or as the case may be, the Panchayat may appeal to the State Government within sixty days of such order exclusive of the time requisite for obtaining a copy thereof.

(4) Notwithstanding anything contained in sub-sections (2) and (3) the State Government may institute a suit under this section on its own initiative.

81. *Bar to legal practitioner.*—No legal practitioner shall appear on behalf of any party in any proceedings under this Act before a Panchayat or a ²[Nyaya Panchayat] :

Provided that any party, on reasonable cause being shown, and a woman, shall be permitted to employ any relation, dependant or friend, who is not, and who has not been previously, a legal practitioner, to appear either jointly with or in lieu of such party.

82. *Validity of notice.*—No notice issued under this Act shall be invalid on account of any defect or omission in its form.

83. *Entry and inspection.*—The Sarpanch of a Panchayat ³[XXXX] and, it authorised in this behalf, any Panch, officer or servant thereof, may enter into or upon any buil-

1. Substituted by section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 13-6-1959.

2. Substituted by section 61 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

3. omitted by section 62 *ibid*.

ding or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Panchayat is authorised by this Act or by rules or bye-laws made thereunder, to make or execute or which it is necessary for a Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or bye-laws thereunder to make or execute :

Provided that—

- (a) except when it is in this Act or in rules or bye-laws thereunder otherwise expressly provided, no such entry shall be made between sun-set and sun-rise,
- (b) except when it is in this Act or in rules or bye-laws thereunder otherwise expressly provided, no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof and without giving the said occupier previous notice of the intention to make such entry.
- (c) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of any apartment appropriated for females to move to some part of the premises where their privacy shall not be disturbed, and
- (d) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

¹[83A. *Requisitioning of vehicles, etc. for purposes of general elections.*—(1) If it appears to the Collector that, in

1. Inserted and deemed to have been inserted from 28.11.60 by section 12 of Rajasthan Act No. 10 of 1961 pub. in Rajasthan Gazette, Extraordinary, Part IV.A dt. 4.4.61:

vessel, or animal, there shall be paid to the owner thereof out of the Consolidated Fund of the State, compensation the amount of which shall be determined by the Collector on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal :

Provided that, where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government, the amount of compensation to be paid shall be such as the State Government may determine.

(2) Where, immediately before the requisitioning, the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under sub-section (1) as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and, in default of agreement, in such manner as the Collector or the State Government may decide.

83C. *Power to obtain information.*—The Collector may, with a view to requisitioning any vehicle, vessel or animal under section 83A or determining the amount of compensation payable under section 83B, by order, require any person to furnish to such officer or authority as may be specified in the order such information in his possession relating to such vehicle, vessel or animal as may be so specified.

83D. *Power of entry and inspection.*—(1) Any person authorised in this behalf by the Collector may enter into or upon any land or premises and inspect any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 83A should be made in relation to such vehicle, vessel or animal, or with a view to securing compliance with an order made under that section.

(2) In this section, the expression "vehicle" has the same meaning as in section 83A.

83E. *Penalty for contravention of orders regarding requisitioning.*—If any person contravenes any order made under section 83A or section 83C, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both].

[84. *Disputes.*—(1) If any dispute arises between two or more Panchayats within the jurisdiction of the same Panchayat Samiti, it shall be referred to the Panchayat Samiti.

(2) If any dispute arises between two or more Panchayats within the jurisdiction of different Panchayat Samitis, but in the same district, it shall be referred to the Zila Parishad.

(3) If any dispute arises between a Panchayat and a Panchayat Samiti in the same district, it shall be referred to the Zila Parishad.

(4) If any dispute arises between a Panchayat and a Panchayat Samiti not within the same district or between a Panchayat or a Zila Parishad or a Municipal Board, it shall be referred to the State Government.

(5) The decision of the Panchayat Samiti or the Zila Parishad or the State Government, as the case may be, on any dispute referred to it under the foregoing sub-section shall not be liable to be questioned in any court of law].

85. *Power and duties of Police in respect of offences and assistance to the Panchayats.*—Every Police Officer shall give immediate information to the Panchayat of an offence coming to his knowledge which has been committed against this Act

or any rule or bye-law made thereunder and shall assist all Panchas, Officers and servants of the Panchayat in the exercise of their lawful authority.

86. *Power to include, exclude or transfer areas.*—(1) The State Government may at any time, after one month's notice published in the prescribed manner ¹[either on its own motion or], at the request of the Panchayat or of the residents of any Panchayat Circle, village or other area, and by notification in the ²[Official Gazette].—

- (a) include any area in a Panchayat Circle ;
- (b) exclude any area from a Panchayat Circle; or
- (c) transfer any area from one Panchayat Circle to another.

(2) Any area included in a Panchayat Circle under sub-section (1) shall become subject to this Act and all notifications, rules, bye-laws and orders made under this Act in respect of such Circle from the date on which such inclusion is to take effect.

(3) Any area excluded from a Panchayat Circle under sub-section (1) shall cease to be subject to this Act and to all notifications, rules, bye-laws and orders made under this Act in respect of such Circle from the date on which such exclusion is to take effect.

(4) Any area transferred under sub-section (1) from any Panchayat Circle to another shall, with effect from the date on which such transfer is to take effect, cease to be subject to

1. Inserted and shall be deemed always to have been inserted by section 2 of Rajasthan Act No. 23 of 1955, published in Rajasthan Gazette, Extraordinary dated 22.12.1955.

2. Substituted by section 4 of Rajasthan Act No. 27 of 1957, Extra Part IV-A, dated 13.6.1959.

the Panchayat which previously to such transfer had jurisdiction therein and to the notifications, rules bye-laws and orders applicable thereto. The Panchayat to which such area is so transferred shall exercise jurisdiction therein with effect from the said date and all notifications, rules, bye-laws and orders applicable to the latter Panchayat shall apply to that area.

(5) When any area is transferred under sub-section (1) the State Government shall place at the disposal of the Panchayat to whose jurisdiction such area has been transferred such portion of the property and funds, as it may deem fit, of the Panchayat from whose jurisdiction that area has been transferred.

(6) When an order under sub-section (1) is passed the State Government shall also, if it considers necessary, order re-elections or confirm the existing Panchayat '[XXX]' for the altered area.

'[(7) When an order under sub-section (1) has been or is passed and the State Government orders under sub-section (6) the re-election of Panchas to the Panchayat '[XXXX]' for the altered area, it may issue further directions in respect of the number of Panchas which such Panchayat '[XXX]' shall consist of and in respect of other matters incidental to, or consequential upon, such re-elections '[and the term of the Panchayat thereby reconstituted shall be for the residue of the term for which the existing Panchayat would have held office if re-election had not been ordered under sub-section (6)]'.

1. Omitted by section 63 (a) of Rajasthan Act No. 25 of 1960, published in Raj. Gazette, Extraordinary, Part IV-A, dated 24.8.1960.

2. Omitted by section 63 (b) (i) *ibid*.

3. Inserted by section 63 (b) (ii) *ibid*.

4. Inserted and shall be deemed always to have been inserted by section 2 (ii) of Rajasthan Act No. 23 of 1955, pub. in Raj. Gaz. Extra, dated 22.12.55.

¹[85. *Special provisions in relation to re-delimitation of Panchayat circles.*—(1) Notwithstanding anything contained in section 86 or in any other provision of this Act, the State Government may, by notification in the Official Gazette, order that any two or more Panchayat circles shall be re-delimited in such manner and with effect from such date as may be specified in the notification.

(2) In every such case the Panchayats for the existing Panchayat circles shall, if otherwise competent, continue to function as such till the day immediately preceding the date specified in the notification issued under sub-section (1) but such continuance shall not preclude the State Government or any other officer or authority competent under this Act or the rules made thereunder or specially or generally authorised in this behalf by the State Government to take measures under this Act and the rules thereunder to ensure that a new Panchayat is formed in accordance with the provisions thereof for the re-delimited Panchayat circle before or by the aforesaid day.]

87. *Incorporation of a Panchayat.*—²[(1)] Every Panchayat shall, by the name notified in the ³[Official Gazette], be a body corporate having perpetual succession and common seal and shall, subject to any restrictions and conditions imposed by or under this Act or any other law, have power to acquire by purchase, gift or otherwise, to, hold, administer and transfer property both movable and immovable and to enter into any contract, and shall, by the said name, sue and be sued.

²[(2) The State Government may, from time to time, by

1. Inserted by section 64 of Rajasthan Act No. 25 of 1960, pub. in Raj. Gaz. Extraordinary Part IV-A, dated 24.8.1960.

2. Renumbered and inserted by Section 4 of Rajasthan Act No. 40 of 1958, pub. in Raj Gazette, Extraordinary, Part IV.A dated 1.12.1958.

3. Substituted by section 4 of Rajasthan Act No. 27 of 1957 published in Raj. Gaz. Extraordinary part IV-A dated 13.8.1957.

notification in the Official Gazette, change the name of any such Panchayat].

[88. *Panchayat property*.—(1) Subject to such reservations as may from time to time be made by the State Government all property of the nature hereinafter in this sub-section specified shall vest in and belong to a Panchayat, that is to say—

- (i) all common lands lying within its Panchayat circle;
- (ii) all public streets therein together with the pavements, stones and other materials thereof and all trees, erections, materials and implements provided therefor;
- (iii) all public gates, markets, buildings, tanks, reservoirs wells, bridges, culverts, tunnels, gutters, water-works water courses, lamps and lamp-posts which have been constructed or provided for, or are maintained, out of the Panchayat fund;
- (iv) all dust, dung, ashes, refuse, and dead bodies of animals lawfully collected by the servants of the Panchayat from public or private places;
- (v) all Government buildings and all private buildings and lands transferred to the Panchayat by gift or otherwise; and
- (vi) all Government lands lying within the abadi area of the Panchayat circle.

(2) The State Government may, subject to such conditions and restrictions as it may think fit to impose, vest in

the Panchayat any properties, works, materials or things belonging to the State Government.

(3) All properties mentioned in sub-sections (1) and (2) shall be under the direction, management and control of the Panchayat and shall be held by it as trustee for the purposes of this Act.

(4) All markets and fairs, except those managed by the State Government or a Panchayat Samiti, that are held upon lands vested or vesting in, the Panchayat, shall be managed and regulated by it.

(5) All Properties mentioned in sub-section (1), together with the proceeds thereof or the income therefrom and any dues levied or imposed in respect of markets and fairs mentioned in the last foregoing sub-section (which shall be received to the credit of the Panchayat fund) shall, subject to the provisions of this Act and the rules made thereunder, be applied by the Panchayat in the achievement of the objects of this Act.

(6) The properties mentioned in sub-section (2) shall be leased out or sold- and the proceeds thereof shall be utilised by the Panchayat in the prescribed manner and subject to the prescribed conditions and any lease or sale otherwise granted or made shall be void as against the State Government.

(7) The State Government may from time to time, by notification in the Official Gazette, resume, in consultation with the Zila Parishad concerned, any property mentioned in sub-section (2),—

- (i) if the Panchayat is found upon inquiry to have mismanaged the same, or
- (ii) if the same is otherwise required by the Government in the Public interest.

on such terms as the State Government may determine.]

89. *Power to make rules.*—(1) The State Government may, by notification in the '[Official Gazette,] make rules, consistent with this Act, to carry out the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (i) any matter for which power to make provisions is conferred expressly or by implication on the '[State Government] by this Act;
- (ii) the establishment of Panchayats;
- ²[(*iii*) the constitution of Nyaya Panchayat;]
- (*iii*) the time and place of meetings of Panchayats and ³[Nyaya Panchayats], the manner of convening such meetings and giving notice thereof;
- (*iv*) the conduct of proceeding including the asking of questions by Panchas at meetings and the adjournment of meetings and also minute books of meetings;
- (*v*) the suspension and removal of office bearers;
- (*vi*) the records and registers that shall be kept and maintained by Panchayats and ³[Nyaya Panchayats] and the forms in which they are to be so kept and maintained;
- (*vii*) the action to be taken on the occurrence of a vacancy in a Panchayat or a ⁴[Nyaya Panchayat];

1. Substituted by section 4 of Rajasthan Act No. 27 of 1957, published in Raj. Gazette, Extraordinary, Part IV-A, dated 13.8.1957.

2. Inserted by section 66 (1) (i) of Rajasthan Act No. 25 of 1960, published in Raj. Gazette, Extraordinary, Part IV-A, dated 24.8.1960.

3. Subs. by sec 66 (1)(ii) *ibid*.

4. Subs. by sec. 66 (1)(iii) *ibid*.

- (viii) the amount and nature of security to be furnished by a servant of Panchayat ¹[or Nyaya Panchayat] from whom it is deemed expedient to require security;
- (ix) appointment, qualifications, dismissal, discharge, removal and punishment of the officers and servants of Panchayats and ²[Nyaya Panchayats] and their right of appeal;
- (x) management and regulation of provident fund for the servants of Panchayats and ²[or Nyaya Panchayats], if the system of provident fund is adopted;
- (xi) the establishment, maintenance, administration and control of libraries, reading rooms, primary schools, and Ayurvedic and Unani hospitals and dispensaries, the construction and repair of buildings connected therewith and the supply of medicines and medical assistance to the inhabitants of the local area of a Panchayat;
- (xii) the discovery, removal and destruction, of water hyacinth on any land, premises or water, the construction of fences and barriers for checking its movements and the cost incurred in carrying out such works;
- (xiii) action in regard to sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisance;
- (xiv) the framing of budgets and earmarking funds for specific purposes;

1. Subs. by sec. 66 (1)(iv) of Raj. Act No. 25 of 1960, pub. in Raj. Gaz. Extra part IV-A dated 24.8.60

2. Subs. by sec 66 (1)(v) *ibid.*

- (xv) the returns to be submitted by Panchayat ¹[and Nyaya Panchayats] the form in which they are to be, the authorities to which, and the time when they shall be, submitted;
- (xvi) the levy of taxes and licence fees, the authority by which and the manner in which taxes may be assessed, and the authority to which an appeal from an assessment order may be made;
- (xvii) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Panchayats in the recovery of taxes and dues;
- (xviii) the method of account keeping by Panchayats;
- (xix) the maintenance, ²[management and disposal] of public buildings and nazul land;
- (xx) the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Panchayat;
- (xxi) the powers of auditors and inspecting and superintending authorities to hold inquiries, summoning and examining witnesses, compelling the production of documents and all other matters connected with audit, inspection and superintendence;
- (xxii) the issue and service or execution of summons, notices and other processes of ³[Nyaya Panchayats];

1. Substituted by section 66 (1) (vi) of Rajasthan Act No. 25 of 1960, published in Raj. Gazette, Extraordinary, Part IV-A, dated 24.8.1960.

2. Inserted by section 66(1)(vii)ibid.

3. Substituted by section 66(1)(viii) ibid.

- (xxiii) the transfer by ¹[Nyaya Panchayats] of summons and other processes to another ¹[Nyaya panchayat] or any court for service or execution;
- (xxiv) the fees to be levied by ¹[Nyaya Panchayats] for institution of suits and cases, for issue of processes, for obtaining copies of documents and other matters;
- (xxv) the procedure for execution of decrees, orders and sentences passed by ¹[Nyaya Panchayats];
- (xxvi) the allotment by Panchayats of funds for the performance by ²[Nyaya Panchayats] of their duties under this Act and the extent to which fees paid to ²[Nyaya Panchayats] may be appropriated by Panchayats;
- (xxvii) the powers that may be exercised by a ³[Panchayat Samiti or a Zila Parishad] or the ⁴[Officer in-charge of Panchayats] in the discharge of their duties and obligations under this Act and the manner in which such powers may be exercised;
- (xxviii) the procedure to be observed in the making of bye-laws by the ⁴[Zila Parishad] or by Panchayats;
- (xxix) the printing of the prescribed forms and registers;

1. Substituted by section 66 (1) (viii) of Rajasthan Act 25 of 1960, published in Raj. Gazette, Extra dated 24.8.1960

2. Subs. by sec. 66 (1) (ix) *ibid.*

3. Subs. by sec. 66 (1) (x) *ibid.*

4. Substituted by section 5 of Rajasthan Act No. 30 of 1959, published in Raj. Gaz. Extraordinary Part IV-A dated 13.6.59.

- (xxx) the submission for approval of plans, designs and specifications;
- (xxxi) the duties, powers and functions of village volunteer force;
- (xxxii) the submission of annual reports by Panchayats ¹[and Nyaya Panchayats] and their review;
- (xxxiii) the persons, other than the Sarpanchas and the Panchas of the Panchayats ²[X X X], who may be present in an advisory capacity in meetings thereof;
- (xxxiv) the channel of correspondence between a Panchayat and other authorities;
- ³[(xxv) X X X]
- (xxvi) the action to be taken on the inclusion of the whole or part of the local area of any Panchayat in any Municipality or in other Panchayat Circle and the manner in which the assets and liabilities of a Panchayat may be disposed of in such circumstances;
- (xxvii) the conditions subject to which sums due to a Panchayat may be written off as irrecoverable and the conditions subject to which the whole or any part of a fee may be remitted;
- (xxviii) the regulation of the election, ⁴[co-option] or nomination of the Sarpanch, and Panchas of Panchayats ⁵[X X X]

1. Inserted by section 66 (1) (xii) of Rajasthan Act No. 25 of 1960, pub. in Raj. Gazette, Extraordinary, Part IV-A, dated 24.8.1960.

2. Omitted by section 66 (1) (xiii) *ibid.*

3. Omitted by section 66 (1)(xiv) *ibid.*

4. Inserted by section 66 (1) (xv) (a) *Ibid.*

5. Omitted by section 66(1)(xv)(b) *Ibid.*

- ¹[(~~xxviii~~a)] the election of the Chairmen and members of Nyaya Panchayats and their retirement by rotation;
- (~~xxviii~~b) the training to be imparted to members of Nyaya Panchayats;
- (~~xxviii~~c) the allowances to be paid to the Sarpanchas and Panchas of Panchayats and to the Chairmen and members of Nyaya Panchayats;
- (~~xxviii~~d) the grounds on which, the conditions subject to which, and the manner in which an election or co-option held under this Act may be called in question;
- (~~xxviii~~e) the authority for the decision of election and co-option disputes;]
- [(~~xxix~~) any matter which, under this Act, may be or is required to be prescribed or for which rules may be or are required to be made thereunder;]
- (xl) Generally for the guidance of the Panchayats and ²[Nyaya Panchayats] and of servants and authorities of the ³[State Government] in any matter connected with the carrying out of the provisions of this Act.

³[(3) All rules made under this Act after the 1st April, 1960 shall be laid, as soon as may be after they are so made, before the House of the State legislature, while it is in session, for a period of not less than fourteen days which may

1. Inserted by section 66 (1) (xvi) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra Part IV-A, dated 24.8.1960.

2. Substituted by section 66 (1) (xviii) *ibid*.

3. Added by section 66(2) *ibid*.

4. Substituted by section 4 of Rajasthan Act No. 27 of 1957, Extraordinary, Part IV-A, dated 13.8.57.

be comprised in one session or in two successive sessions and; if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.]

90. *Powers of the '[Zila Parishad]' to frame bye laws.—*

(1) The '[Zila Parishad]' may, and, when required by the State Government, shall, make bye-laws for any Panchayat, consistent with this Act and the rules made thereunder, for of the purpose promoting and maintaining the health, safety and convenience of persons residing within the jurisdiction of such Panchayat for furtherance of the administration of Panchayats under this Act.

(2) All bye-laws made under this section shall be published in the Official Gazette].

91. *Power of Panchayats to frame bye-laws.—*(1) Subject to the provisions of this Act and the rules made thereunder, a Panchayat may frame bye-laws, consistent with any bye-laws made under section 90.—

(a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water.

- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;
- (c) to prevent damage to public streets and Panchayats property;
- (d) to regulate sanitation, conservancy and drainage in its Panchayat Circle;
- (e) to prohibit or regulate the use of public streets or other places by shopkeepers and other individuals, and to regulate the collections of market tolls on public streets;
- (f) to regulate the manner in which tanks, ponds, cess-pools, pasture-lands, play grounds, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used;
- (g) to regulate the disposal of carcasses of dead animals; and
- (h) to regulate the places used for the sale of meat or fish and wine.

(2) The draft of the bye-laws framed by a Panchayat under sub-section (1) shall be published in the prescribed manner, and any objection received thereto shall be considered at a meeting of the Panchayat, whereafter the bye-laws shall be submitted together with the objections, if any, received and the decisions taken thereon, to the '[Zila Parishad]'. The bye-laws as sanctioned by the '[Zila Parishad]' shall come into force after they have been published in the prescribed manner.

92. *Infringement of rules and bye-laws.*—In making a rule under section 89 or a bye-laws under section 90 or section 91 the State Govt. or the ¹[Officer-in-charge of Panchayats] or the Panchayat, as the case may be, may direct that a breach thereof shall be punishable with fine which may extend to ten rupees, and when the breach is continuing one, with a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

²[92 A. *Power to amend schedules.*—The State Government may by notification in the Official Gazette, amend, add to or vary any of the Schedules to this Act in such manner as it thinks proper.

92B. *Removal of difficulties.*—If any difficulty arises in giving effect to, enforcing or carrying out the provisions of this Act, the State Government may, by order published in the Official Gazette, give such directions and do such things which appear to it to be necessary for the removal of such difficulty.]

93. *Repeal and savings.*—(1) All laws in force in any part of ³[the State of Rajasthan] relating to village Panchayats, are hereby repealed:

Provided that all rights created under any law so repealed, shall, unless the are inconsistent with the provisions of this Act, be deemed to have been created thereunder :

Provided further that all sums due on account of any tax, fine or fee imposed by any law, as repealed, shall be recovered under the provisions of this Act :

1 Substituted by section 5 of Rajasthan Act No. 30 of 1959, pub. in Raj. Gaz. extra ordinary, Part IV-A, dated 13-6-1959.

2. Inserted by section 67 of Rajasthan Act No. 25 of 1960, pub. in Raj. Gaz. Extraordinary, Part IV-A, dated 24-8-60.

3. Substituted by section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extraordinary Part IV-A dated 13-8-1957.

Provided also that such repeal shall not in any way affect or invalidate anything done or action taken, before the commencement of this Act, under or in pursuance of any law as repealed.

(2) All panchayats established under any law as repealed, in existence on the date of commencement of this Act, shall continue and be deemed to have been established under this Act but the State Government may, in any case and shall in the case of Panchayats constituted otherwise than in accordance with the principle of adult franchise, direct that any such Panchayat shall be re-constituted in accordance with the provisions of this Act :

Provided that, when any such Panchayat is re-constituted as aforesaid,—

- (a) all funds and other properties belonging to such Panchayat shall vest in the Panchayat so re-constituted,
- (b) all liabilities of such Panchayat shall be transferred to and discharged by the Panchayat so re-constituted, and
- (c) all cases, suits and proceedings pending before such Panchayat shall be transferred to the Panchayat so re-constituted.

[(3) In making a direction for the re-constitution of a Panchayat under sub-section (2) the State Government may order any area to be included in or excluded from the Panchayat Circle of such Panchayat and may issue further directions as to the number of Panchas of the Panchayat for

1. Inserted and shall be deemed to have always been inserted by section 2 of Rajasthan Act No. 23 of 1955, published in Rajasthan Gazette, Extraordinary, Part IV, dated 22-12-1955.

the altered area and as to all other matters relating to such re-constitution and re-election of Panchas thereto.

(4) Notwithstanding any defect or lack of form, procedure, jurisdiction or power and notwithstanding anything contained in any judgment, decree or order—

- (i) all Panchayats of the category specified in sub-section (2) which have been notified after the commencement of this Act to have been established under section (3) or to have been re-constituted under sub-section (2) of this section shall be deemed to have been re-constituted as respects their Panchayat Circle, under sub-section (2) read with sub-section (3) of the section, and
- (ii) all orders made under section 4 as to the number of Panchas of such Panchayats or as to other matters relating to the re-constitution of such Panchayats and the re-election of Panchas thereto as well as all elections held in pursuance of such orders shall be deemed to have been made or held as the case may be, under sub-section (3) of this section.]

THE FIRST SCHEDULE ✓

(See Section 28)

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- G. Offences under the Rajasthan Prevention of Juvenile Smoking Act, 1950.
- H. Offences under this Act or the rules made thereunder.
- I. Any other offence, under any law declared by the State Government to be triable by a '[Nyaya Panchayat].

THE SECOND SCHEDULE

(See Section 44)

<i>Description of suits</i>	<i>Period of limitation.</i>	<i>Time from which period begins to run.</i>
1. For money due on a contract.	3 years.	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	3 years.	When the plaintiff became entitled to the delivery of the property.
3. For compensation for wrongly taking or injuring movable property.	3 years.	When the movable property was wrongfully taken or when injury was done to it.
4. For damages caused by cattle trespass.	6 month	When the damage was caused by the cattle trespass

1. Substituted by section 68 of Rajasthan Act No, 25 of 1960, published Raj. Gazette Extraordinary Part IV A dated 24.8.1960.

THE THIRD SCHEDULE

(See Section 24)

MATTERS FOR WHICH PANCHAYATS MAY PROVIDE

1. *In the sphere of sanitation and health,—*

- (a) the supply of water for domestic use and for cattle;
- (b) the cleansing of public streets, drains, bunds, tanks and wells (other than wells and tanks used for irrigation) and other public places or works;
- (c) sanitation, conservancy, prevention and abatement of nuisance and disposal of carcasses of dead animals;
- (d) the preservation and improvement of the public health;
- (e) the regulation by licensing or otherwise of tea, coffee and milk shops;
- (f) provision, maintenance and regulation of burning and burial grounds;
- (g) the lay out and maintenance of play-grounds and of public gardens;
- (h) the disposal of unclaimed corpses and unclaimed cattle;
- (i) the construction and maintenance of public latrines and the regulation of private latrines;

- (j) the taking of measures to prevent the outbreak, spread or recurrence of any infectious disease;
- (k) the reclaiming of unhealthy localities;
- (l) the removal of rubbish heaps, jungle growth, prickly pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits, hollows, the prevention of water logging in irrigated areas and other improvements of sanitary conditions;
- (m) maternity and child-welfare;
- (n) providing medical relief;
- (o) the encouragement of human and animal vaccination;
- (p) the regulation of the construction of new buildings and the extension or alteration of existing buildings.

II. In the sphere of public works,—

- (a) the removing of obstructions and projections in public streets or places and sites, not being private property, which are open to the public, whether such sites are vested in the Panchayat or belong to the State Government;
- (b) the construction, maintenance and repairs of public streets, drains, bunds and bridges :

Provided that if the streets, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of that authority;

- (c) the maintenance and regulation of the use of public buildings, grazing lands, forest lands including lands assigned under section 28 of the Rajasthan Forest Act, 1953 (Rajasthan Act 13 of 1953) tanks and

wells (other than tanks and wells used for irrigation), vesting in or under the control of the Panchayat;

- (d) the lighting of the Panchayat circle;
- (e) the regulation and control of fairs, bazars, markets, hats, tonga-stands and cart-stands within the Panchayat circle other than those managed by the State Government or a Panchayat Samiti;
- (f) the regulation and control of wine shops and slaughter-houses;
- (g) the planting of trees along public streets and in market places and other public places and their maintenance and preservation;
- (h) the destruction of stray and ownerless dogs;
- (i) the construction and maintenance of dhramashalas;
- (j) the management and control of bathing or washing ghats which are not managed by the State Government or any other authority;
- (k) the establishment and maintenance of markets;
- (l) the construction and maintenance of houses for the conservancy staff of the Panchayat;
- (m) the provision and maintenance of camping grounds;
- (n) the establishment, control and management of cattle ponds;
- (o) the establishment and maintenance of works or the provision of employment in times of famine or scarcity;

- (p) the extension of abadi sites and the regulation of buildings in accordance with such principles as may be prescribed;
- (q) the establishment and maintenance of warehouses;
- (r) excavation, cleansing and maintenance of ponds for the supply of water to animals.

III In the sphere of education and culture,—

- (a) the spread of education;
- (b) the establishment and maintenance of akharas, clubs and other places for recreation and games;
- (c) the establishment and maintenance of theatres for promotion of art and culture;
- (d) the establishment and maintenance of libraries and reading-rooms;
- (e) the installaation of public radio sets and gramophones;
- (f) the promotion of social welfare of the Panchayat circle including the promotion of prohibition, the removal of untouchability, amelioration of the condition of backward classes, the eradication of corruption and the discouragement of gambling and useless litigation.

IV. In the sphere of self-defence and Panchayat circle defence.—

- (a) watch and ward of the Panchayat circle and of the crops therein:

Provided that the cost of watch and ward shall be levied and recovered by the Panchayat from such

persons in the Panchayat circle and in such manner, as may be prescribed;

- (b) regulating, checking and abetting of offensive or dangerous trades or practices;
- (c) rendering assistance in extinguishing fires, and protecting life and property when fire occurs.

V. In the sphere of the administration.—

- (a) the numbering of premises;
- (b) the taking of census
- (c) the drawing up of programmes for increasing the out-put of agricultural and non-agricultural produce in the Panchayat circle;
- (d) the preparation of the statement showing the requirement of supplies and finances needed for carrying out rural development schemes;
- (e) acting as a channel through which assistance given by the Central or State Government for any purpose reaches the Panchayat circle;
- (f) making surveys;
- (g) the control of cattle stands, threshing-floors, grazing grounds and community lands;
- (h) the establishment, maintenance and regulation of fairs, pilgrimages and festivals, not managed by the State Government or a Panchayat Samiti;
- (i) the preparation of statistics of unemployment;
- (j) reporting to proper authorities of complaints which are not removable by the Panchayat;

- (k) the preparation, maintenance and upkeep of Panchayat records;
- (l) the registration of births, deaths and marriages in such manner and in such form, as may be laid down by the State Government by general or special order in this behalf;
- (m) the preparation of plans for development of the villages within the Panchayat circle.

VI. In the sphere of welfare of the people,—

- (a) assistance in the implementation of land reform schemes;
- (b) the relief of the crippled, destitute and the sick;
- (c) assistance to the residents when any natural calamity occurs;
- (d) making arrangements for co-operative management of land and other resources in the Panchayat circle and organisation of collective farming, credit societies and multi-purpose co-operative societies;
- (e) the reclamation of waste land and bringing waste land under cultivation with the previous permission of the State Government;
- (f) organising voluntary labour of community works and works for the uplift of the Panchayat circle;
- (g) opening of fair-price shops;
- (h) propagation of family planning.

VII. In the sphere of agriculture and preservation of forests,—

- (a) the improvement of agriculture and establishment of model agricultural farms;
- (b) the establishment of granaries;
- (c) bringing under cultivation waste and fallow lands vested by the State Government in the Panchayat;
- (d) securing minimum standards of cultivation in the Panchayat circle with a view to increasing agricultural production;
- (e) ensuring conservation of manurial resources, preparing compost and sale of manure;
- (f) the establishment and maintenance of nurseries for improved seeds and provision of implements and stores;
- (g) the production and use of improved seeds;
- (h) the promotion of co-operative farming;
- (i) crop experiments and crop protection;
- (j) minor irrigation works which do not irrigate more than fifty acres of land and which do not fall within the duties of a Panchayat Samiti;
- (k) raising, preservation and improvement of village forests;
- (l) the promotion of dairy farming.

VIII. In the sphere of breeding and protecting cattle,—

- (a) improvement of cattle and cattle breeding and the general care of livestock including their medical

treatment and prevention of the spread of disease in them;

(b) maintenance of studbulls.

IX. *In the sphere of village industries,—*

The promotion, improvement and encouragement of cottage and village industries.

X. *Miscellaneous,—*

- (a) construction and repair of school buildings and all buildings appurtenant thereto;
 - (b) construction of quarters for primary schools teachers;
 - (c) the undertaking and rendering of postal service for and on behalf of the Postal Department of the Government of India on terms settled with that Department;
 - (d) the securing of life and general insurance business;
 - (e) the sale of small savings certificate as agents or otherwise].
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Section II

The Rajasthan Panchayat Samiti & Parishads Act, 1959. (Act 111 of 1959)

LIST OF AMENDING LEGISLATIVE MEASURES

(ACTS & ORDINANCES)

AFFECTING

THE RAJASTHAN PANCHAYAT SAMITIS & ZILA PARISHADS ACT, 1959 (ACT No. XXXVII OF 1959)

*[First Published in the Rajasthan Gazette Extra ordinary
Part IV-A dated-9. 9. 1959]*

1. The Rajasthan Panchayat (Amendment) Act, 1960 (Act No. 25 of 1960) First published in the Raj. Gazette Extra-ordinary part IV-A dated 24th Aug. 1960.
2. The Rajasthan Panchayat Samitis & Zila Parishads (Amendment) Act, 1961 (Act No. 11 of 1961) First published in the Raj. Gazette Extra-ordinary, part IV-A dated 5th April, 1961.
3. The Rajasthan Finance Act, 1961 (Act No. 14 of 1961) First published in the Raj. Gazette Extraordinary part IV-A dated 4th May, 1961.
4. The Rajasthan Panchayat Samitis & Zila Parishads (Second Amedment) Act, 1961 (Act No. 27 of 1961), First published in the Raj. Gazette part IV-A dated 21st Oct, 1961.
5. The Rajasthan Divisional Commissioners (Office Abolition) Act, 1962 (Act No. 8 of 1962), First published in the Raj. Gazette Extra-ordinary part IV-A dated 23rd April, 1962.
6. The Rajasthan Panchayat Samitis & Zila Parishads (Amend-ment) Act, 1962 (Act No. 13 of 1962), First published in the Raj. Gazette Extra-ordinary part IV-A dated 30th May, 1962.

The Rajasthan Panchayat Samitis & Zila Parishads (Amendment) Act, 1964 (Act No. 2 of 1964) First published in the Raj. Gazette Extra-ordinary part IV-A dated 24-3-1964.

The Rajasthan Panchayat Samitis & Zila Parishads (Second Amendment) Act, 1964 (Act No. 19 of 1964), First published in the Raj. Gazette Extra-ordinary part IV-A dated 7th Sept. 1964.

The Rajasthan Panchayat Laws (Amendment) Act, 1964 (Act No. 32 of 1964) First published in Raj. Gazette Extra-ordinary part IV-A dated 3rd Dec., 1964.

The Rajasthan Panchayat Samitis & Zila Parishads (Second Amendment) Ordinance, 1964 (Ordinance No. 8 of 1964), First published in Raj. Gazette Extra-ordinary, part IV-B dated 29th Dec., 1964.

THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA PARISHAD Act, 1959.

(Act No. 37 of 1959)

[Published in Rajasthan Gazette, Extraordinary, Part IV-A, dated
September 9, 1959.]

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THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA PARISHADS Act, 1959.

(Act No. 37 of 1959)

(Received the assent of the President on the 9th day of September, 1959)

An Act to provide for the constitution of Panchayat Samitis and Zila Parishads in the State of Rajasthan.

WHEREAS it is expedient to provide for the constitution of Panchayat Samitis and Zila Parishads in the State of Rajasthan and for matters connected therewith or incidental thereto;

BE it enacted by the Rajasthan State Legislature in the Tenth Year of the Republic of India as follows :—

Comments

Object of the Act.

This Act ushered in the three-tier Panchayati Raj in this State on the basis of the recommendations of the Balwant Ray G. Mehta Committee, which was set up by the Planning Commission. The statement of Objects and Reasons of the Bill culminating in this Act, published in the Rajasthan Gazette, Extra-ordinary, Part III-A, dated May 18, 1959, is reproduced below to indicate the purpose of the Act:—

Extracts from the Statement of Objects & Reasons.

“In the Second Five Year Plan, the Planning Commission has laid great emphasis on the fact that planning should start at the lowest level and that Panchayats should be the nucleus of such planning. Implementation of all schemes of rural development should be broad-based on self help and mutual cooperation. The study Team on Community Development headed by Shri Balwant Raiji Mehta (which was appointed by the Committee on Plan Projects set up by the Planning Commission) examined this question at great length and suggested the formation of Panchayats in villages and democratic de-centralisation of administration at the block and district levels.

This Bill proposes to undertake comprehensive legislation for the purpose of establishing Panchayat Samitis and Zila Parishads in the State. It seeks to introduce amendments in the Rajasthan Panchayat Act wherever necessary, so that Panchayats may fit in the three-tier scheme of de-centralisation contemplated by the Bill. The Panchayat Samiti will be a corporate body and the administration of the block including the implementation of the Community Development programme in close association with the Panchayats shall vest in the Panchayat Samiti. The Zila Parishad shall also be a body corporate.....It shall supervise the activities of all the Panchayat Samitis within the district and shall function as a coordinating body at the district level.....The Government hope that this would develop the initiative of the local people and that sound leadership which is highly indispensable to the successful working of democratic institutions will arise and be developed at all levels in the district.

The Bill is intended to implement the objects mentioned above."

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement* :—(1) This Act may be called the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959.

(2) It shall extend to the whole of the State of Rajasthan.

(3) It shall come into force on such date and in such areas as the State Government may, by notification in the Official Gazette, appoint.

Comments

This Bill was first published in the Official Gazette on the 9th September, 1950 and was brought into force throughout the State from the 10th September, 1959 by a notification of the same date.

Since its commencement, the Act has been amended ten times as per the list of amending measures given in the page facing that of the Table of Contents.

2. *Definitions* :—In this Act, unless the subject or context otherwise requires—

(1) "Additional Collector" means the officer appointed with that designation by the State Government;

¹[(2) × × ×]

(3) "Block" means an area which may be declared by the State Government by notification in the Official Gazette, to be a block irrespective of the fact whether the community development programme has been initiated in that area or not;

¹[(3A) × × ×]

(4) "District Board" means a District Board established or deemed to be established under the Rajasthan District Boards Act, 1954 (Rajasthan Act 2 of 1954) or under any other corresponding law in force in any part of the State and includes a committee appointed by a District Board, and any member, officer or servant of a District Board, authorised or required by or under that Act or law, to exercise the powers or perform the duties of the District Board;

(5) "District Development Officer" means the Collector of the District;

³[(5-a) "Gramdan Village" and "Gram Sabha" shall have the meanings respectively assigned to them in the Rajasthan Gramdan Act, 1960 (Rajasthan Act 3 of 1960).]

(6) "Judge" means—

(a) the District Judge sitting at the place where the principal office of the Panchayat Samiti is situated, or

(b) where there is no such District Judge, the Civil Judge so sitting, or

(c) where there is no such Civil Judge also, any other Civil Judge specially empowered in this behalf by the District Judge having jurisdiction;

²[(7) × ×]

(8) "Member" means a member of a Panchayat Samiti or a Zila Parishad, as the case may be;

(9) "Panchayat Samiti" means a Panchayat Samiti constituted ¹[or to be constituted] under this Act;

(10) "Population" used with reference to any area, means the population of that area according to the returns of the latest Government census for the time being;

1. Omitted by item (20) to the schedule of Rajasthan Act No. 8 of 1962, published in Rajasthan Gazette, Extraordinary Part IV-A dated 23-4-62.

2. Omitted by sec. 11 of Raj. Act No. 32 of 1964, published in Raj. Gazette Pt. IV-A, Ext., Dt. 3-12-1964.

3 Inserted by sec. 3 of Ordinance No. 8 of 64 published in Raj. Gaz. part IV-B Extra. dated 29-12-64.

²[Provided that the population of Scheduled Tribes in a block shall be such as may be certified by the Collector of the district in which that block lies.]

(11) "Pradhan" means the Pradhan of a Panchayat Samiti;

(12) "Pramukh" means the Pramukh of a Zila Parishad;

(13) "Residence in a block or a district" means dwelling in a house or part of a house in that block or district, as the case may be, for not less than 180 days in the aggregate during the 12 months immediately preceding the date fixed for any election, co-option or nomination, as the case may be, under this Act, and all grammatical variations and cognate expressions shall be construed accordingly;

(14) "Vikas Adhikari" means the officer appointed with that designation by the State Government or by such other authority as may be authorised by the State Government in that behalf;

(15) "Zila Parishad means a Zila Parishad constituted ¹[or to be constituted] under this Act;

(16) "Words and expressions" used but not defined in this Act shall have the meanings assigned to them in the law for the time being in force relating to Panchayats, Municipalities and District Boards.

3. *Amendment in Rajasthan Act 8 of 1955.*—In clause (43) of section 32 of Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955), after the words "a district board" the words "a Zila Parishad, a Panchayat Samiti" shall be inserted.

4. *Amendments of Rajasthan Act 21 of 1953 :—*

Comments

This section pertains to the amendments in the Rajasthan Panchayat Act, 1953, so that Panchayats may fit in the three tier

1. Inserted retrospectively by section 2 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Added—*ibid.*

scheme of democratic de-centralisation contemplated by the Act. All these amendments have been carried out in the authors' commentary on the Rajasthan Panchayat Act, 1953 which is given in this volume in the amended form. Hence the provisions of this section introducing extensive amendments in the above Act, are not being reproduced here.

5. *Amendment in Rajasthan Act 24 of 1957.*—After section 19 of the Rajasthan Entertainments Tax Act, 1957 (Rajasthan Act 24 of 1957) the following new section shall be inserted namely :—

“19 A. *Panchayat Samitis to collect tax under the Act.*—(1) Notwithstanding anything in this Act, every Panchayat Samiti constituted for a block under the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, shall, as from a date notified by the State Government in this behalf (hereinafter referred to as the appointed date), collect within the block the tax under this Act and for the purposes of such collection—

(a) all the provisions of this Act shall apply and shall be deemed to have come into force in the block on and from the appointed day:

Provided that sections 14, 17 and 19 of this Act shall not so apply,

(b) the powers exercisable under any provision of this Act by a prescribed authority shall be exercised in like circumstances by the Panchayat Samiti,

(c) the powers exercisable thereunder by the State Government, except those mentioned in sub-section (1) of section 4, sub-section (2) of section 7 and section 18 shall be exercised in like circumstances by the Panchayat Samiti,

(d). In sections 15 and 16 references to the State Government shall be construed as including references to the Panchayat Samiti, and

(e) references to officers and servants of the State Government shall be construed as including references to officers and servants of the Panchayat Samiti,

(2) As from the appointed date—

(a) no sum shall be payable by the State Government under section 14 to any local authority within the block, and

(b) the expenditure incurred in the collection of the taxes shall be met by the Panchayat Samiti from out of its fund and the proceeds arising therefrom shall be credited to that fund.”

CHAPTER II

PANCHAYAT SAMITIS

6. *Declaration of blocks.*—(1) For the purposes of this Act, the State Government may, by notification in the Official Gazette,—

- (a) declare any area within the same district to be a block, or
- (b) include any area within the same district in a block so declared, or
- (c) exclude any area from any such block, or
- (d) transfer any area from one block to another within the same district:

Provided that any areas which, at the commencement of this Act, stand declared by the State Government, by notification in the Official Gazette, as blocks shall be deemed to be blocks for the purposes of this Act.

(2) The State Government shall define, and may alter, the limits of every block.

(3) When, under sub-section (1), any area is included in a block, the Panchayat Samiti for that block shall have jurisdiction over such area and all rules, notifications, orders, directions, notices and powers lawfully made, issued and conferred and in force throughout the block at the date of such inclusion, shall apply to the area so included from that date, unless the State Government directs otherwise.

(4) When, under sub-section (1), any area is excluded from a block, such area shall, as from the date of such exclusion, cease to be subject to the jurisdiction of the Panchayat Samiti of that block and to the rules, notifications, orders, directions and notices in force therein.

(5) When, under sub-section (1) any area is transferred from one block to another, such area shall cease to be subject to the Panchayat Samiti which, previously to such transfer, had jurisdiction therein and to the rules, notifications, orders, directions and notices applicable thereto.

(6) Every area so transferred shall, as from the date of such transfer, be subject to the jurisdiction of the Panchayat Samiti of the block to which such transfer has been made and to the rules, notifications, orders, directions and notices applicable thereto, and the State Government may place at the disposal of the Panchayat Samiti of the block to which such transfer has been made such portion

of the assets of the Panchayat Samiti from whose jurisdiction the area has been transferred as it may deem proper.

(7) The State Government may, for the purposes of the foregoing sub-sections, make such temporary orders and give such temporary directions as it may consider necessary.

7. Constitution of Panchayat Samitis:—(1) The State Government may, by notification in the Official Gazette, constitute a Panchayat Samiti for a block with effect from such date as may be specified in the notification.

(2) Every Panchayat Samiti shall bear the name of the block for which it is constituted and be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to enter into contracts and may, by its corporate name, sue and be sued.

(3) The State Government may, by notification in the Official Gazette, change the name of a Panchayat Samiti.

(4) If, after a Panchayat Samiti is constituted for a block under sub-section (1), the block is redelimited, the State Government may reconstitute the Panchayat Samiti for the redelimited block under that sub-section:

Provided that, in reconstituting the Panchayat Samiti, the State Government may direct that the Pradhan, the Up-Pradhan or a co-opted member of the Panchayat Samiti¹ [who] was functioning immediately before such redelimitation and who is otherwise qualified to hold such office in the reconstituted Panchayat Samiti shall be the Pradhan, Up-Pradhan or co-opted member of the reconstituted Panchayat Samiti as if he was elected or co-opted, as the case may be, to such office in the reconstituted Panchayat Samiti.

8. Composition of Panchayat Samitis:—(1) Every Panchayat Samiti shall consist of³ [the following members, namely]—

⁴[Ex-officio Members.]

(i) Sarpanchas of all Panchayats in the block, and;

⁵[(ia) × × ×]

²[(ii) × × ×]

1. Substituted retrospectively from 9-II-60 by section 4 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 5-1-61.

2. Omitted by section 70 (1) (a) of the Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 24-8-1960.

3. Inserted by section 5(a) of Act No. 11 of 1961.

4. Ins. by sec. 12 (a) (1) of Raj. Act. No. 92 of 1964, published in Raj. Gaz. pt IV—A dated 2-12-1964.

5. Omitted by sec. 12 (a) (ii)—*ibid*,

Provided that—

(a) in case the area of a panchayat ¹[× × ×] circle extends over more than one block, the Sarpanch of that Panchayat ¹[× × ×] shall be a member of the Panchayat Samiti of all such blocks but such Sarpanch shall not be elected as Pradhan or Up-Pradhan of more than one Panchayat Samiti,

(b) if the office of the Sarpanch of a Panchayat ¹[× × ×] in the block is vacant, the Up-Sarpanch of that Panchayat ¹[× × ×] shall, until the vacancy is filled up, be the member of the Panchayat Samiti of that block,

(c) if the offices of both the Sarpanch and Up-Sarpanch of a Panchayat ¹[× × ×] in the block are vacant, any person elected by the Panchayat ¹[× × ×] from among its other Panchas shall until either of the two vacancies is filled up be the member of the Panchayat Samiti of the block,

(d) notwithstanding anything in the law for the time being in force relating to Panchayat, if any Sarpanch of a Panchayat ¹[× × ×] refuses to be a member of the panchayat Samiti or resigns such membership or otherwise ceases to be such member, he shall, with effect from the date of such refusal, resignation or cessation, cease to be the Sarpanch of the Panchayat ¹[× × ×] and the person who succeeds him in such office shall be the member of the Panchayat Samiti in his place, ²[× × ×]

(e) in the case of a superseded Panchayat ¹[× × ×] or where any Panchayat ¹[× × ×] is not functioning at the relevant time, the Panchayat Samiti shall co-opt ³[after the date fixed for its constitution or re-constitution] a person residing in the area within the jurisdiction of such Panchayat ¹[× × ×] to be the member representing such area.

⁵[(f) if the Sarpanch of a Panchayat is elected under section 12 to be the Pradhan of the Panchayat Samiti, the Up-Sarpanch of that Panchayat shall be the member of the Panchayat Samiti so long as the said Sarpanch continues to hold the office of the Pradhan during the current term of office of the Panchayat Samiti, and]

⁴[(g) × × ×]

⁵[(ii) members of the Legislative Assembly of the State elected from the area within the jurisdiction of the Panchayat Samiti;

(iii) Sub-Divisional Officer within whose jurisdiction the block is situate, who shall be an ex-officio member, but shall have no right to vote;

1. Omitted by section 70 (1) (a) of the Rajasthan Act No 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 21-8-1960.

2. Omitted retrospectively from 9-11-63 by section 5 (a) of Rajasthan Act No 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

3. Inserted by section 5 (a)—ibid.

4. Omitted by sec. 12 (a) (1) of Raj. Act No. 32 of 1964, published in Raj. Gaz. part IV-A Extra dated 3-12-1964.

5. Inserted by sec. 12 (i) (iii)—ibid.

¹Elected Members.

(iiia) members elected, in the prescribed manner, by the Presidents of all the Gram Sabhas in the block from amongst themselves; the number of the members to be so elected shall be such as may be determined by the Collector in accordance with the following table:—

Table

(a) if the total population of the group of villages for which such Gram Sabhas have been established does not exceed one thousand.	One Member
(b) if it exceeds one thousand	One Member for every one thousand persons or part in excess of one thousand persons :

Provided that if there is only one Gram Sabha in a block, the President thereof shall be deemed to be elected a member of the Panchayat Samiti concerned:

Provided further that election of a member under this clause may be held notwithstanding any vacancy in the office of President of any Gram Sabha in a block; and any election so held shall be valid notwithstanding such vacancy;]

Co-opted Members

(iv) members co-opted under sub-section (2);

Associate Members

(v) associate members specified in section 10.]

²[(1a) Ex-officio members specified in clauses (i) and (ii) of sub-section

(1) ¹[elected members] and co-opted members shall have the right to speak, in or otherwise take part in the proceedings of, the Panchayat Samiti and of any Standing Committee thereof and shall also be entitled to vote, but the ex-officio members specified in clauses (ii) and (iii) of the said sub-section or a Sarpanch who is also a member of the State Legislature or Parliament shall not be elected as Pradhan or Up-Pradhan or as Chairman of the Standing Committee.]

¹[(2) The following persons shall be co-opted as members in the prescribed manner from amongst persons who are residents of the block and who

1. Ins. and subs. by sec. 4 of Raj Ord. 8 of 1964, pub. in Raj. Gaz, Part VI-B, Ext. dated 29-12-64.

2. Ins. by sec. 12 (b) of Raj. Act No, 82 of 1964, pub. in Raj, Gaz., Pt. IV—A, Extra dated 3—12—64.

are voters of the Panchayats, or members of Gram Sabha, in the block, by the members mentioned in clauses (i), (ii) and (iii-a) of sub-section (1), namely:—

- (i) two woman, if no woman is a member of the Panchayat Samiti by virtue of clause (i) of sub-section (1),
- (ii) one woman, if only one woman is such member,
- (iii) two persons belonging to the scheduled castes, if no such person is a member of the Panchayat Samiti by virtue of clause (i) of sub-section (1).
- (iv) One person belonging to the scheduled castes, if only one such person is a member of the Panchayat Samiti by virtue of clause (i) of sub-section (1),
- (v) in case the population of scheduled tribes in a block exceeds five per cent of the total population thereof:—
 - (a) two persons belonging to such tribes, if no such person is a member of the Panchayat Samiti of that block by virtue of clause (i) of sub-section (1), or
 - (b) one person belonging to such tribes, if only one such person is a member of that Panchayat Samiti by virtue of clause (i) of sub-section (1):

Provided that co-option under this sub-section may be held notwithstanding vacancy of member specified in clause (iii-a) of sub-section (1) and any co-option so held shall be valid notwithstanding such vacancy.]

Comments

Composition of Panchayat Samitis.

This section has been materially amended by the Rajasthan Panchayat Laws (Amendment) Act, 1964 (Act No. 32 of 1964) and the Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Ordinance 1964 (Ordinance No. 8 of 1964). This Act and the Ordinance were introduced to bring about major reforms in the Panchayati Raj of the State as recommended by the Committee appointed by the Government to go into the working of the Panchayati Raj of this State. This Committee, popularly known as the Sadiq Ali Committee gave its report

Marketing Cooperative Societies) in the block, one representative of the Chairmen of the Cooperative Societies in the block and Chairmen of the Marketing Cooperative Societies of the Block have been made Associate Members of the Panchayat Samitis. These people have no voting rights in respect of election and other matters. They have been given limited voting rights in respect of such production programmes as may be prescribed by the Government. These Members cannot also hold any elective office in the Samiti. They are not full members of the Panchayat Samiti and have only an advisory and liaison role to play.

[7. *Additional members of Panchayat Samitis.*—An Up-Sarpanch referred to in sub-section (5) of section 12 or a Sarpanch referred to in sub-section (5A) of that section shall, so long as he continues to hold the office of the Pradhan of a Panchayat Samiti, be an additional member of that Panchayat Samiti.]

[10. *Associate members of Panchayat Samitis:*—(1) The following persons shall be associate members of a Panchayat Samiti, namely:—

- (a) One representative elected, in the prescribed manner, by the chairmen of the service co-operative societies in the block, from amongst themselves;
- (b) one representative elected, in the prescribed manner, by the chairmen of the co-operative societies in the block other than those referred to at (a) and (c) from amongst themselves; and
- (c) chairmen of the marketing co-operative societies, if any, having area of operation in the block.

(2) An associate member of the Panchayat Samiti shall have the right to speak in, or otherwise to take part in, the proceedings of, the Panchayat Samiti and of any committee of the Panchayat Samiti of which he may be elected as a member, but shall not be entitled to vote thereat; and shall not be eligible to be elected as Pradhan or Up-Pradhan or Chairman of Standing Committee:

Provided that an associate member shall have a right to vote in proceedings relating to such matters of production programme as may be prescribed.

1. Substituted retroactively from 9-11-60, by section 6 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 5-4-61.

2. Subs. by sec. 13 of Raj. Act No. 32 of 1964, pub. in Raj. Gaz. part IV-A Extra dated 3-12-64

Explanation:—For the purposes of this section,—

- (a) “co-operative society” means a society registered or deemed to have been registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act 4 of 1953);
- (b) “marketing Co-operative society” means a co-operative society formed for the purpose of marketing agricultural or other produce and includes among its objects, the supply of the requisites of such production;
- (c) “service co-operative society” means a co-operative society formed with the object of obtaining for its members the credit, goods or services required by them.]

11. *Special meeting for co-option of members:*—(1) The Collector shall, on a date previously to the date appointed for the constitution of a Panchayat Samiti under section 7 or, subject to the provisions of sub-section (4) of section 7, on every occasion when the Panchayat Samiti is reconstituted, convene at the office of the Panchayat Samiti, at the appointed time, a special meeting of the members of the Panchayat Samiti specified in ³[clauses (i), (ii) and (iii-a)] of sub-section (1) of section 8] after giving them a notice in writing of not less than seven clear days of such meeting, for the co-option of the members specified in sub-section (2) of section 8.

(2) The Collector ²[himself] or the Additional Collector ⁴[× × ×] ²[or any other subordinate gazetted officer authorised in this behalf by the Collector] shall preside at such meeting.

(3) If for want of the necessary quorum or for any other sufficient reasons the members of the Panchayat Samiti referred to in sub-section (1) fail to co-opt members specified in sub-section (2) of section 8, the Collector ²[himself] or the Additional Collector ⁴[× × ×] ²[or any other subordinate gazetted officer authorised in this behalf by the Collector] presiding over the meeting shall adjourn the same to another date not less than seven days after the date appointed under sub-section (1), and the presence of the necessary quorum shall not be required at such adjourned meeting.

1. Substituted by section 7 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Inserted—ibid.

3. Subs. by sec. 5 of Raj. Ordinance No. 8 of 1961, published in Raj. Gaz., Part IV-B Extraordinary, dated 29. 12. 64.

4. Omitted by sec. 14 (b) of Raj. Act. No. 92 of 1964, pub. in Raj. Gaz., Extraordinary, Part IV-A, dated 3-12-64.

(4) A notice of the date fixed for the adjourned meeting shall be affixed on the notice board of the office of the Panchayat Samiti and shall be despatched by post under a certificate of posting individually to the members specified in ¹[clauses (i), (ii) and (iii-a)] ²of sub-section (1) of section 8] immediately after the adjournment of the previous meeting under sub-section (3) and upon such despatch the notice shall be regarded as having been served on the members within the ordinary course of the post.

(5) The Collector ³[himself] or the Additional Collector ⁴[× ×] ⁵[or any other subordinate Gazetted officer authorised in this behalf by the Collector] shall preside at such adjourned meeting also and, if at such adjourned meeting the members of the Panchayat Samiti specified in ¹[clauses (i), (ii) and (iii-a)] ²of sub-section (1) of section 8] fail to co-opt any of the members specified in sub-section (2) of that section, the State Government shall nominate such member or members and every member so nominated shall be deemed to have been duly co-opted.

12. *Election and term of office of Pradhan and Up-Pradhan of a Panchayat Samiti and filling up of vacancies.* ³[(1) Every Panchayat Samiti shall have—

(a) a Pradhan who shall be elected by—

(i) the members of the Panchayat Samiti specified in clauses (i), (ii) and (iv) of Sub-section (1) of section 8; ⁶ [×]

(ii) all members of the Panchayats in the block, specified in clauses (b) and (c) of sub-section (1) of section 4 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953) ⁶[; and]

⁶[(iii) Presidents of all the Gram Sabhas in the block;]

Provided that no person shall be eligible to be elected as Pradhan unless he is a voter of any Panchayat or a member of any Gramsabha established under section 8 of the Rajasthan Gramdan Act, 1960 (Rajasthan Act 3 of 1960) in, and a resident of, the block and is able to read and write Hindi :

Provided further that no person shall be entitled to be elected or to continue as Pradhan if he is or becomes a member of the State Legislature or Parliament :

Provided also that election to the office of a Pradhan or Up-Pradhan may be held notwithstanding the failure of any Panchayat or Panchayat Samiti to co-

1. Subs by Sec. 5 of Raj. ordinance No. 8 of 1964.

2. Subs by Sec. 7 of Raj. No. 11 of 1961.

3. Inserted *ibid*.

4. Omitted by sec. 14 (e) (ii) of Act No. 92 of 1964.

5. Subs. by sec. 15 (a) of Act No. 92 of 1964.

6. Omitted, substituted and inserted by sec. 6 of the Ordinance No. 8 of 1964, pub. in Raj. Gazette, Part IV-B Extra, dt, 29-12-64.

opt any member at the first meeting convened for such co-option ¹[or any vacancy in the office of any member specified in clause (iii-a) of sub-section (1) of section 8] and any election so held shall be valid notwithstanding such vacancies:

- (b) an Up-Pradhan, who shall be elected by the members of the Panchayat Samiti other than those specified ²[in clauses (iii) and (v)] of sub-section (1) of section 8 from amongst the members specified in clauses (i) and (iv) of sub-section (1) of the said section.

(1-A) A Pradhan shall, unless he is already a member, be an additional member of the Panchayat Samiti and shall in all respects and for all purposes, be deemed to be an ex-officio member of the Panchayat Samiti specified in clause (i) of sub-section (1) of section 8;

(2) As soon as may be after the co-option of members mentioned in sub-section (2) of section 8, and as often as the office of the Pradhan becomes vacant, ³[election to the office of the Pradhan shall be conducted in the prescribed manner.]

(3) As soon as may be after the election of the Pradhan and as often as the office of the Up-Pradhan becomes vacant, a meeting for electing the Up-Pradhan shall be convened by the Pradhan in the prescribed manner.

(4) Every election under sub-section (2) or sub-section (3) shall be by secret ballot.

(5) If the ³[x x x] Up-Sarpanch of a Panchayat ³[x x x] is elected as the Pradhan of a Panchayat Samiti, he shall, on and from the date of his election as such, cease to be, and vacate the office of, the ³[x x x] Up-Sarpanch of the Panchayat ⁴[x x x] but such cessation shall not affect in any way his election as such Pradhan and he shall continue to hold the office of Pradhan as though he had been duly elected thereto as an additional member of the Panchayat Samiti.

³[(5A) If the Sarpanch of Panchayat is elected as the Pradhan of a Panchayat Samiti—

1. Ins. by sec. 6 (a) of Raj. Ordinance 8 of 1961.

2. Sub by sec 6 (b) ibid.

3. Omitted and Inserted retrospectively by section 8 of Rajasthan Act. No. 11 of 1961 published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

4. Omitted vide Section 70 (iii) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

5. Subs. by sec., 15 (b) of Raj. Act No. 32 of 1964, pub. in Raj. Gaz., Part, IV-A Ext. dated 3-12-64.

(i) he shall, on and from the date of his election as such Pradhan, nominally continue to be the Sarpanch of that Panchayat for so long as he would have but for such election held the office of such Sarpanch,

(ii) during that period he shall neither have any hand in the administration of the affairs of that Panchayat nor participate in the meetings thereof,

(iii) he shall hand over charge of all papers and properties pertaining to his office as Sarpanch, as provided in section 15-A of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953), to the Up-Sarpanch of the Panchayat who shall thereafter act, during that period, as Sarpanch for all practical purposes and represent the Panchayat on the Panchayat Samiti concerned as a member of the latter,

(iv) fresh elections to the office of the Sarpanch of that Panchayat shall not be held during the said period, and

(v) if during that period he vacates the office of the Pradhan upon removal or otherwise, he will resume charge of the office of the Sarpanch and shall as such replace the Up-Sarpanch as a representative of the Panchayat on the Panchayat Samiti],

(6) Save as otherwise provided in this Act, the term of office of every Pradhan or Up-Pradhan shall be co-extensive with the term of the Panchayat Samiti, of which he is elected Pradhan or Up-Pradhan, as the case may be.

(7) When a vacancy occurs in the office of the Pradhan or the Up-Pradhan before the expiration of the term thereof, the person elected as Pradhan or Up-Pradhan in that vacancy shall hold office for the residue of the term of his predecessor.

Comments

Election of Pradhan.-

This section has also been materially changed by the amendments made by the Rajasthan Panchayat Laws (Amendment) Act, 1964 and the Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Ordinance, 1964 (Ordinance No. 8 of 1964). The section has been amended on the basis of the Sadiq Ali Committee Report, which recommended a broad based electoral college for the election of the Pradhan. According to this section, as it stands after the amendments made therein by the above two amending measures, the Pradhan of a

Panchayat Samiti is elected by the Sarpanchas of all the Panchayats in the block, M. L. As, elected from the area comprised in the block, members co-opted under sub-section (2) of section 8, all the coopted and elected Panchas of the various Panchayats in the block, and the Presidents of all the Gram Sabhas in the block.

According to the Section as now changed, any person who may not be a member of a Panchayat Samiti or even of any Panchayat can be elected as the Pradhan of a Panchayat Samiti, provided he is a voter of any Panchayat or a member of any Gram Sabha established in the block and a resident of the block. He should also be able to read and write Hindi in order to be eligible for the office of the Pradhan. A member of the State Legislature or of Parliament cannot become or continue to remain a Pradhan.

Election of Up-Pradhan.—

An Up-pradhan is elected by all the members of the Panchayat Samiti excluding the Sub-Divisional Officer and the associate members from amongst the Sarpanchas and the coopted and elected members of the Samiti.

13. *Dispute as to election under section 12.*—(1) The election of a Pradhan or Up-Pradhan of a Panchayat Samiti may be called in question by any member thereof by presenting in the prescribed manner to the Judge a petition in this behalf on the prescribed grounds and within the prescribed period.

(2) A petition presented under sub-section (1) shall be heard and disposed of in the prescribed manner and the decision of the Judge thereon shall be final.

14. *Term of office.*—(1) Subject to the provisions contained in sub-section (2), the term of office of a Panchayat Samiti shall be three years¹ [with effect from such date as may be notified by the State Government in this behalf];

²[Provided that the State Government may, by notification in the Official Gazette, extend from time to time, the said term by a period not exceeding one year in the aggregate:

1. Inserted retrospectively from 28-10-60 by section 9 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Subs. by sec. 2 of Rajasthan Act No. 2 of 1964, pub. in Rajasthan Gazette, Part IV-A. Extra dated 24-3-64,

Provided further that] the term of a Panchayat Samiti constituted under this Act before the 31st day of January, 1961, ²[or such other date as may be notified by the State Government in this behalf] shall not extend beyond that date.

²[(1A) Notwithstanding anything contained in sub-section (1), the term of the Panchayat Samitis as existing on the date of the commencement of the Rajasthan Panchayat Laws (Amendment) Act, 1964, shall be extended upto the 31st day of March, 1965, or such earlier date as may be notified by the State Government in this behalf.]

(c) Save as otherwise provided in this Act—

(a) a member specified in ⁴[clause (i)] of sub-section (1) of section 8 shall hold office so long as he continues to be the Sarpanch of the Panchayat ³[× × ×]

⁶[(aa) × × ×]

(b) a member co-opted under clause (c) of the proviso to sub-section (1) of section 8 shall hold office till the constitution or reconstitution of the Panchayat ³[× × ×] and the election of its Sarpanch;

¹[(bb) every member co-opted under clause (i) of sub-section (2) of section 8 shall hold office so long as he continues to be the president of any of the Gram Sabhas of gramdan villages or group of gramdan villages which he represents];

⁵[(c) × × ×]

(d) a member co-opted under clause (ii) or clause (iii) or clause (iv) or clause (v) ⁵[× ×] of sub-section (2) of section 8 shall hold office for the full term of the Panchayat Samiti, ⁶[;]

⁷(e) a ⁸ex-officio member specified in clause (ii) of sub-section (1) of section 8 shall hold office so long as he continues to be a member of the Legislative Assembly of the State; ⁸[×]

1. Inserted from 9-11-60, by section 9 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Added by sec. 16 (a) of Raj. Act No. 32 of 1964, published in Rajasthan Gazette, Part IV A, Extra, dated 3-12-1964.

3. Omitted vide section 70 (iv) (a) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-8-1960.

4. Substituted by section 10—*ibid*.

5. Omitted by Sec. 16 (b) (ii) of Rajasthan Act No. 32 of 1964, pub in Rajasthan Gazette, Part IV-A, Extra dated 3-12-1964.

6. Subs. *ibid*.

7. Added *ibid*.

8. Omitted, by section 7 of the Rajasthan Ordinance 8 of 61, published in Rajasthan Gazette Part IV IV B Extra dated 29-12-61.

(f) an associate member specified in section 10 shall hold office for the full term of the Panchayat Samiti or so long as he continues to be a chairman of the service or other co-operative society or marketing co-operative society, as the case may be. ¹[;and]

¹[(g) an elected member specified in clause (iii-a) of sub-section (1) of section 8 shall hold office for the full term of the Panchayat Samiti or so long as he continues to be a President of the Gram Sabha, as the case may be.]

15. *Disqualifications for becoming a member.*—A person shall be disqualified to become a member ²[(other than a member specified in clause (iii) of sub-section (1) of section 8) or a Pradhan] of the Panchayat Samiti, if he—

³[(a) holds a salaried whole-time or part-time appointment under the Central Government or a State Government or a local authority];

(b) is under twenty five year of age,

(c) has been dismissed from Government service for misconduct involving moral turpitude and has been declared to be disqualified for employment in the public service,

(d) holds any salaried post or place of profit in the gift or disposal of the Panchayat Samiti,

⁴[(e) has directly or indirectly, by himself or by his partner, employer or employee, any share or interest in any subsisting contract entered into in the course of his trade or business with, by, or on behalf of, the Panchayat Samiti for the supply of goods to, or for the execution of any work undertaken by that Panchayat Samiti, while owning such share or interest otherwise than as a member of a co-operative society or as a share holder other than the director of a company],

(f) is a leper or is suffering from other bodily or mental defect or disease rendering him incapable for work,

1. Omitted and inserted by sec. 7 of the Raj. Ordinance No 8, of 1964 pub. in Raj Gaz. part IV-B Extra dated 29-12-64.

2. Inserted by sec. 18 *ibid*.

3. Subs by sec. 10 of Raj. Act No, 11 of 1961 pub.

4. Subs from 12-12-60 by *ibid*.

(g) has been convicted by a competent court of an offence involving moral turpitude or of an offence under the Untouchability (Offences) Act, 1955 (Central Act 22 of 1955) or under any other law notified in this behalf by the State Government,

(h) is an undischarged insolvent,

(i) has not paid, for two months from the date of presentation of the bill therefor the amount of any tax or fee imposed by the Panchayat Samiti under this Act or by the Panchayat under the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953),

(j) is employed as a legal practitioner on behalf of or against the Panchayat Samiti,

(k) is disqualified for election as the Sarpanch or Up-Sarpanch or Panch of a Panchayat ²[or as the Chairman or member of a Nayaya Panchayat] ¹[x x x] under sub-section (4 B) of section 17 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953),

(l) is disqualified for election as Pradhan or Up-Pradhan under sub-section (3) of section 40:

Provided that—

(i) for the purposes of clauses (c) and (g), any person shall become eligible for election after a lapse of six years from the date of his dismissal or conviction as the case may be, or earlier if he is declared eligible for election by a general or special order of the State Government in this behalf, and

(ii) for the purpose of clause (i) ³a person shall not be deemed to be disqualified if he has paid the amount of such tax or fee due from him before the date of filing his nomination paper.

16. *Cessation of membership*—³[(1)] Subject to the provisions of section 17, a member of a Panchayat Samiti ⁴[shall not be eligible to continue] to be such member if he—

(a) is or becomes subject to any of the disqualifications specified in section 15, or

1. Omitted vide section 70 (V) of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 24-8-1960.

2. Inserted retrospectively from 9/11/60 by section 10 of Raj. Act. 11 of 1961, published in Raj. Gazette, Part IV—A, Extraordinary, dated, 5/4/61.

3. Re-numbered by section 11—*ibid*.

4. Substituted—*ibid*.

(b) ceases to reside in the block,

(i) in the case of a Pradhan, for 240 days, and

(ii) in any other case, for 180 days,

in the aggregate in any year commencing from the date of his election, co-option or nomination, as the case may be:

Provided that the provision contained in this clause shall not apply to a member co-opted under clause (vii) of sub-section (2) of section 8 if he is not elected as the Pradhan of the Panchayat Samiti to which he has been co-opted:

Provided further that, if the Pradhan so resides in any municipality surrounded by or adjoining the block of which he is the Pradhan, he shall, for the purpose of this clause, be deemed to be residing in the block, or

(c) has absented himself from five consecutive meetings of the Panchayat Samiti without the previous permission of the Pradhan:

Provided that, if the Pradhan is inclined to refuse such permission, he shall obtain the approval of the Panchayat Samiti to such refusal, or

¹[(cc) despite having been nominated by the Zila Parishad thrice for the purpose, fails to attend the Adhyayan Kendra to pursue the prescribed course of study, or]

(d) resigns his office, or

(e) dies.

²[(2) Whenever it is made to appear to the State Government that the Pradhan or a member of a Panchayat Samiti has become ineligible to continue to be such Pradhan or member for any of the reasons specified in sub-section (1), the State Government may, after giving him an opportunity of being heard, declare him to have become so ineligible and thereupon he shall vacate his office as such Pradhan or member, as the case may be:

Provided that no such opportunity shall be given if, such Pradhan or member has been determined by the Judge under section 17 to be or to have become disqualified under section 15:

Provided further that, until a declaration under this sub-section is made he shall continue to hold his office.]

1. Inserted retrospectively from 9/11/60 by section 11 of Raj. Act. 11 of 1961, published in Raj. Gazette, Extraordinary Part IV—A, date 5-4-61.

2. Inserted retrospectively *ibid*.

17. *Judge to decide questions of disqualifications*:(1) Whenever it is alleged that any member of a Panchayat Samiti is or has become disqualified and such member does not admit the allegation, or whenever any member is himself in doubt whether or not he is or has become disqualified for the office, such member¹ [or the State Government] or any other member may, and the Pradhan at the request of the Panchayat Samiti shall, apply to the Judge for a decision on the allegation or doubt.

(2) The Judge, after making such inquiry as he considers necessary, shall determine whether or not such member is or has become disqualified and his decision shall be final.

(3) Pending such decision, the member shall be entitled to act as if he were not disqualified.

18. *Casual vacancies how to be filled*:—In the event of the office of any member of a Panchayat Samiti becoming vacant by death, removal, resignation or otherwise under this Act, which shall be forthwith reported to the prescribed authority, an election or co-option, as the case may be, to fill the vacancy shall be held in such manner as may be prescribed. The foregoing provisions of this Act shall apply to such election or co-option and the member so elected or co-opted shall hold office for the remainder of the term during which the outgoing member would have been entitled to hold office if the vacancy had not occurred:

Provided that such vacancy shall not be filled up if the said term expires within six months from the date of occurrence of such vacancy.]

19. *Resignation of the Pradhan, Up-Pradhan or member*.—The Pradhan, the Up-Pradhan or any member may resign his office as such Pradhan, Up-Pradhan or member by giving notice in writing to the Panchayat Samiti. Such resignation shall take effect on and from the date on which the notice is received by the Vikas Adhikari:

Provided that the resignation of the Pradhan shall take effect on and from the date on which the sanction thereto of the Pramukh is received in the office of the Panchayat Samiti.

1. Inserted retrospectively from 9-11-60, by section 12 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part-IV—A, dated 5-4-61.
2. Subs. by Sec. 17 of Raj. Act No 32 of 1964, published in Raj. Gaz., Part IV A Extra, dated 3-12-1964.

20. *Standing Committees :—*

¹[(1) Every Panchayat Samiti shall constitute four standing committees one for each of the following group of subjects, namely:—

- (a) administration, finance, taxation and welfare of weaker sections and backward areas;
- (b) production programmes including agriculture, animal husbandry, irrigation, co-operation, [cottage industries and other allied subjects;
- (c) education including social education;
- (d) social services including ruralwater supply, health and sanitation gramdan, communications and other allied subjects concerning the welfare of the community.]

²[(2) A Panchayat Samiti may constitute fifth standing committee for any of the subjects enumerated in any group or groups mentioned in sub-section (1).]

³[(3) Every Standing Committee shall consist of seven members—

- (a) five of whom shall be elected from amongst the members of the Panchayat Samiti in the prescribed manner, and,
- (b) two of whom shall be co-opted in the prescribed manner from amongst persons not being members of the Panchayat Samiti residing in the block and having experience and knowledge of the subjects assigned to the Standing Committee, and in the case of Standing Committee for education, possessing such other qualifications and experience as may be prescribed; and all the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of the members shall be applicable, so far as may be, to such persons.

(4) The Pradhan shall be the ex-officio member and Chairman of the Standing Committee for the group of subjects specified in clause (a) of sub-section (1).]

(5) The Up-Pradhan, if he is elected a member of any standing committee of which the Pradhan is not a member, shall be ex-officio Chairman thereof.

1. Subs. by Sec. 18 (a) of Raj. Act No. 32 of 1961 published in *Raj. Gazette Part I*—3. Ext. dated 3—12—1964.

4. Subs. by Sec. 18(b) *ibid.*

5. Subs. by Sec. 18(c) *ibid.*

(6) The Chairman for every other standing committee of which there is no ex-officio Chairman shall be elected in the prescribed manner.

(7) A standing committee, of which there is an ex-officio or elected Chairman, shall, at each meeting thereof at which such Chairman does not attend, elect from amongst its members a Chairman for such meeting.

(8) No person ¹[× × ×] shall be a member of more than ²[one standing committee] at a time.

(9) Every standing committee shall, in relation to the subjects assigned to it, exercise such powers and perform such functions of the Panchayat Samiti as it may from time to time delegate to such standing committee.

(10) The term of office of every standing committee constituted under this section shall, subject to the provision contained in sub-section (11), be co-extensive with the term of office of the Panchayat Samiti.

(11) As nearly as may be, one-third of the members of a standing committee shall retire every year in accordance with rules made in this behalf.

Provided that this sub-section shall not apply to the standing committees of the first Panchayat Samiti constituted under this Act before the 31st day of January 1961 ³[or such other date as may be notified under the proviso to sub-section (1) of section 14].

³[(12) If a member of a standing committee absents himself, without the previous permission of the Chairman thereof, from five consecutive meetings of the standing committee of which he had due notice, his seat on the standing committee shall be liable to be declared vacant:

Provided that, if the Chairman himself is so absent or if the Chairman is inclined to refuse such permission, he shall obtain the approval of the Pradhan to such absence or refusal or, if the Chairman is himself the Pradhan, the approval of the Panchayat Samiti thereto shall be obtained.

(13) For the purpose of sub-section (12), the member of the standing committee, who so absents himself from such four consecutive meetings thereof, shall be served immediately after the termination of the fourth meeting with a notice specifying the particular of the meetings which he failed to attend and informing

1. Omitted retrospectively from 9-11-60 by Section 14 o' Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Substituted—ibid.

3. Inserted retrospectively from 9-11-60 by section 15—ibid.

him that, upon his failure to attend the next meeting his seat shall be declared vacant, and, if such member does not so attend the fifth meeting or does not show cause to the contrary a declaration shall be made accordingly.]

Comments.

This section has been materially changed by the Rajasthan Panchayat Laws (Amendment) Act, 1964. It now makes the constitution of four Standing Committees for the different groups of subjects named in this section obligatory. A Panchayat Samiti has been given option to constitute one more Standing Committee, but the Standing Committees cannot now exceed more than five.

The Constitution of the Standing Committees has also been changed in that its membership is now limited to seven persons, five of whom are to be elected from amongst the members of the Panchayat Samiti and two are to be co-opted from amongst the persons, who are not members of the Samiti, but have special knowledge and experience of the subjects dealt by the standing committee.

21. *Power of Panchayat Samiti to call for records from its standing committees:—*(1) A Panchayat Samiti may at any time call for any document including extracts from the proceedings of the meetings of any standing committee and any return, statement, account or report concerning or connected with any matter with which such standing committee has been authorised or directed to deal; and every such requisition shall without unreasonable delay be complied with by the standing committee.

¹[(21A) *Power to revise decisions of standing committees:—*(1) A Panchayat Samiti may, on application made to it or otherwise, examine the record of any decision of any of its standing committees and may confirm, reverse or modify such decision:

Provided that no action under this sub-section shall be initiated after the expiration of one month from the date of the decision sought to be revised.

(2) The order of the Panchayat Samiti under sub-section (1) reversing or modifying a decision of its standing committee must be supported by a majority of not less than two-thirds of the total number of its members, failing which the decision of the standing committee shall stand.]

1. Inserted retrospectively from 28-10-60 by section 14 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Part IV-A, Extraordinary dated 5-4-61.

22. Rules for the conduct of business at a meeting of a Panchayat Samiti or standing committee thereof.—Every Panchayat Samiti and a standing committee thereof shall, in regard to the conduct of business at its meetings follow such procedure as may be prescribed.

23. Powers and functions of a Panchayat Samiti.—(1) Every Panchayat Samiti shall exercise all the powers conferred on and perform all the functions entrusted to it by or under this Act and such other powers and functions as may be conferred on and delegated or entrusted to it by the State Government for carrying out the purposes of this Act.

(2) In particular the Panchayat Samiti shall perform the functions specified in the Schedule.

24. Execution of works and programmes by Panchayat Samiti through Panchayats.—Notwithstanding anything contained in section 23 or in any other provision of this Act any programme which a Panchayat Samiti decides to carry out for the benefit of any one panchayat circle ¹[× × ×] shall be the responsibility of, and shall be carried out or executed, as the case may be, through the agency of, the Panchayat of that Panchayat circle.

25. Powers and functions of the Pradhan and Up-Pradhan.—(1) The Pradhan of a Panchayat Samiti shall—

(a) convene, preside over and conduct the meetings of the Panchayat Samiti.

(b) have full access to all its records,

(c) encourage the growth of initiative and enthusiasm in the Panchayats and provide to them guidance in the plans and production programmes undertaken by them and help the growth of co-operation and voluntary organisations therein.

(d) exercise administrative control over the Vikas Adhikari and the staff working in the block in relation to the implementation of the decisions and resolutions of the Panchayat Samiti and the standing committees thereof, and

(e) perform all such functions and exercise all such powers as are imposed or conferred on him by or under this Act or as are delegated to him under section 84.

1. Omitted retrospectively from 9-11-60, by section 16 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 5-4-61

(2) In case of emergency, the Pradhan may, in consultation with Vikas Adhikari—

(a) direct the execution of any work or the doing of any act which requires the sanction of the Panchayat Samiti or any standing committee thereof and the immediate execution or doing of which is in his opinion necessary for the maintenance of services and the safety of the general public.

(b) stay the execution of any such work or the doing of any such act for reasons to be recorded in writing, and

(c) subject to the approval of the Zila Parishad, change any programme of the Panchayat Samiti :

Provided that—

(a) he shall not direct or stay the execution of any such work or the doing of any such act or change any such programme in contravention of the orders of the State Government, and

(b) he shall report the action so taken to the Panchayat Samiti or the standing committee, as the case may be, at its next meeting.

(3) The Pradhan shall at the end of each year submit a report as to the work of the Vikas Adhikari to the District Development Officer who shall send a copy of the report with his own confidential report.

a new Pradhan or Up-Pradhan is elected and assumes office or until either the Pradhan or the Up-Pradhan returns from leave or is reinstated.

26. *Appointment of Vikas Adhikari and other officers.*—(1) The State Government shall appoint for each Panchayat Samiti a Vikas Adhikari and such other Extension Officers ¹[as well as accounts clerks] as it may consider necessary.

(2) The Vikas Adhikari and ²[Extension Officers and accounts clerks] appointed under sub-section (1) shall be—

(a) either persons encadred in a State service or persons holding posts under the State Government,

(b) regarded as being on deputation to the Panchayat Samiti on such terms and conditions as may be prescribed, and

(c) liable to transfer by the State Government in consultation with the Pradhan.

27. *Powers and functions of the Vikas Adhikari.*—(1) The Vikas Adhikari shall—

(a) issue notices, under instructions from the Pradhan and the Chairman of standing committees, for meetings of the Panchayat Samiti and the standing committees thereof,

(b) attend all such meetings and record and maintain the minutes thereof.

(c) participate in the deliberations at such meetings,

(d) draw and disburse moneys out of the Panchayat Samiti fund:

Provided that the Pradhan may, for reasons to be recorded in writing, stop any such payment and place the matter before the Panchayat Samiti or the standing committee concerned,

(e) subject to the prior approval of the Panchayat Samiti, execute contracts for and on its behalf,

(f) sign and authenticate all letters and documents for and on behalf of the Panchayat Samiti,

1. Inserted retrospectively from 9-11-60, by section 17 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Substituted—*ibid*

(g) take steps to remove any defect or irregularity brought to notice in the course of audit of the accounts of the Panchayat Samiti or pointed out in the report of the audit thereof,

(h) report without delay all cases of fraud, embezzlement, theft or loss of money or other property of the Panchayat Samiti,

(i) furnish to the State Government, the Zila Parishad or any other officer authorised in this behalf copies of the resolutions passed at, and proceedings of, every meeting of the Panchayat Samiti or any standing committee thereof and copies of or extracts from other documents required by them,

(j) help the Panchayats in organising essential voluntary organisations for developmental work and in drawing up their plans with a view to ensure that their production programmes conform to the broad policy laid down by the Panchayat Samiti and are designed to increase agricultural produce and co-operative organisation in the panchayat circle,

(k) see that the plans and programmes approved by appropriate authorities are executed with efficiency and through extension methods.

(l) see that the construction programmes undertaken by the Panchayats conform to the standards laid down and are completed within the scheduled time,

(m) inspect on behalf of the Panchayat Samiti the financial position of the Panchayats with special reference to the levy of taxes and their recovery, recovery of loans advanced and maintenance of regular accounts,

(n) exercise general supervision over panchayats in the block for the purposes of this Act,

(o) exercise supervision and control over the acts of all officers and servants of the Panchayat Samiti including the staff borne on the establishment of the Panchayat Samiti and the staff working in institutions and schemes transferred by the State Government to the Panchayat Samiti in matters of executive administration and matters relating to accounts and records of the Panchayat Samiti :

Provided that technical control over such officers and servants of the Panchayat Samiti shall continue to vest in the officers of the concerned technical departments of the State Government, who shall also have the power to inspect and supervise, from the technical point of view, the work of such officers and servants,

(p) exercise such other powers and perform such other functions as are conferred or imposed on him by or under this Act or as may be delegated to him under section 84.

(2) If for any reason the Vikas Adhikari is unable to attend any meeting of the Panchayat Samiti or a standing committee thereof, the seniormost officer subordinate to him, who may be present at the place of the meeting shall attend such meeting.

28. *Powers of the Government officers.*—All gazetted district level officers of the State Development Departments shall be entitled to attend the meetings of the Panchayat Samiti and its standing committees and to participate in the deliberations of such meeting relating to matters concerning their departments.

29. *Power of Panchayat Samiti to require attendance of officers.*—If it shall appear necessary to a Panchayat Samiti or a standing committee thereof that the presence of any district level officer of Government referred to in section 28 is desirable at any of its meetings for the purpose of obtaining his views or any information from him on any point or points having a bearing on the duties and functions of the Panchayat Samiti under this Act, it shall be competent to such Panchayat Samiti, by letter addressed to such officer not less than fifteen days previously to the intended meeting, to require his presence thereat and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting :

Provided that such officer, on receipt of such letter, may, if unable to be present himself, instruct a deputy or assistant or other competent subordinate as to his views or as to the information available with him and may send him to the meeting as his representative instead of appearing thereat in person.

30. *Emergency powers of Vikas Adhikari.*—The Vikas Adhikari, in the absence of the Pradhan of the Panchayat Samiti from its headquarters may, in cases of emergency such as fire, flood, epidemic or the like direct the execution of any work or the doing of any act which would ordinarily require the sanction of the Panchayat Samiti or of a standing committee thereof and the execution or the doing of which is, in his opinion, necessary for the welfare or safety of the public and may also direct that the expenses of executing such work or doing such act shall be paid from the Panchayat Samiti Fund. In every such case, he shall forthwith report the action taken and the reasons therefor to the authority competent to sanction such work or the doing of such act.

31. *Staff of Panchayat Samitis.*—(1) The State Government shall fix the strength of each category of posts, other than those referred to in section 26,

which it may consider necessary for each Panchayat Samiti and shall prescribe the scales of pay and allowances and other conditions of service of the persons appointed to such posts.

(2) With the prior approval of the State Government, every Panchayat Samiti may, if it thinks necessary create additional posts of each such category carrying the same scales of pay and allowances and other conditions of service as are prescribed under sub-section (1).

(3) Appointments to posts in Class IV services fixed under sub-section (1) or created under sub-section (2) shall be made by the Vikas Adhikari in the prescribed manner.

(4) Appointments to other posts fixed under sub-section (1) or created under sub-section (2) shall be made by the Panchayat Samiti in the prescribed manner from out of persons selected for the Rajasthan Panchayat Samiti and Zila Parishad Service constituted under section 86.

(5) All persons holding, since before the constitution of first Panchayat Samitis under this Act, appointments—

(a) to posts encadred in the Service constituted under section 86, or

(b) to posts in Class IV services,

shall be deemed to have been substantively appointed thereto by the Panchayat Samiti or the Vikas Adhikari, as the case may be, and nothing in this section or in section 86 shall apply to such appointments.

32. Allowance to members of the Panchayat Samiti or a Standing Committee thereof.—The members and associate members of a Panchayat Samiti including the Pradhan, the Up-Pradhan and the members of a Standing Committee of a Panchayat Samiti including its Chairman shall be paid such allowances, at such rates and in such circumstances as may be prescribed:

Provided that only one allowance shall be admissible for one day.

33. Power to impose taxes and raise funds.—(1) A Panchayat Samiti may impose and levy in the prescribed manner all or any of the following taxes, namely:—

(a) a tax payable on the rent payable for the use or occupation of agricultural land, at the rate of five naye paise in a rupee of such rent, such tax being payable by the person or persons severally or jointly in cultivatory possession of such land or in receipt of ~~sayar~~ ~~income~~ therefrom,

covered in the lists II and III of the Constitution. The State Governments in their turn can delegate this power to the local bodies like Municipalities, Panchayats and Panchayat Samitis etc. The Panchayat Samitis can, therefore, impose only such taxes which it is specifically authorised to do and which it can impose only after following the procedure prescribed for the same. Any deviation from the prescribed procedure or the imposition of any tax in excess of the authority delegated to it, will render the tax invalid. The Courts can declare any tax not imposed in accordance with the prescribed procedure or not authorised by the State Government as invalid. The tax cannot, however, be challenged on the ground of being heavy or oppressive. The procedure for imposition of the different types of taxes namely the taxes on rent of land and taxes on trade and calling, profession & industries, a Surcharge on stamp duty, a cess on primary education and a tax in respect of Panchayat Samiti fares, (which the Panchayat Samitis have been authorised to impose under this section) should be strictly followed.

34. *Panchayat Samiti Fund.*—(1) All moneys received by a Panchayat Samiti by virtue of this Act or any other law or otherwise shall be credited to and shall constitute a fund to be called the Panchayat Samiti Fund and shall be applied for the purposes specified in this Act and such other purposes and in such manner as may be prescribed.

(2) All moneys received by the Panchayat Samiti shall be lodged in the nearest Government treasury or sub-treasury.

(3) All orders or cheques against the Panchayat Samiti Fund shall be signed by the Vikas Adhikari or, in his absence, by such other [× × ×] officer as may be authorised by him in that behalf:

Provided that all such orders and cheques for an amount exceeding five thousand rupees shall be countersigned by the Pradhan.

(4) To defray the current expenses of a Panchayat Samiti such sums as the Zila Parishad may in each case, deem sufficient may be kept with the Vikas Adhikari of the Panchayat Samiti by way of imprest money.

35. *Income and expenses of a Panchayat Samiti.*—(1) The Panchayat Samiti Fund shall consist of—

(1) grants for liabilities transferred by the State Government to the Panchayat Samiti:

(ii) annual ad-hoc grants by the State Government:

(iii) grants for schemes transferred by the State Government and bodies or institutions for the development of cottage and village industries such as khadi, silk, coir, handicrafts, handlooms, leatherworks and the like;

(iv) loans—

(a) advanced by the State Government, or

(b) raised by the Panchayat Samiti with the previous approval of the State Government:

(v) donations and contributions received by the Panchayat Samiti from local authorities or from the public in any form:

(vi) a share of the land revenue calculated at the rate of twenty-five naye paise per head of the population of the block:

Provided that for the first year only half of the amount so arrived at shall be paid to the Panchayat Samitis;

(vii) proceeds from taxes and fees that the Panchayat Samiti may lawfully impose and levy;

(viii) sale proceeds of immovable and movable properties:

(ix) income arising from leases granted for the collection of bones in the

(x) income arising in consequence of the hearing of appeals from orders of Panchayats under section 26A of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953);

(xi) income arising from the collection of the entertainments tax under the Rajasthan Entertainments Tax Act, 1957 (Rajasthan Act 24 of 1957);

(xii) such other income or receipts as may from time to time be prescribed:

Provided that grants referred to in clauses (i) and (iii) shall be utilised in accordance with the terms and conditions of the same.

(2) The expenses of the Panchayat Samiti shall include the repayment of loans contracted by it, the salaries and allowances of its officers and servants,

allowances to its members, any item of expenditure directed by the State Government for carrying out the purposes of this Act and such other expenses as may be necessary for such purposes:

Provided that the repayment of loans advanced to a Panchayat Samiti by the State Government, along with interest, if any, thereon and the payment of the salaries and allowances of the officers and servants of the Panchayat Samiti and of allowances to its members shall be, in the order of priority in which they are mentioned in this proviso, a charge upon the fund of the Panchayat Samiti in preference to its other liabilities and such charge shall be enforced in the prescribed manner.

36. *Power to grant loans.*—A Panchayat Samiti may, out of its fund, grant loans for the furtherance of its activities to such persons, institutions or societies and, subject to such terms and conditions, as may be prescribed.

Comments.

Panchayat Samitis can grant loans to individuals and institutions in accordance with the Rajasthan Panchayat Samitis (Loans) Rules, 1961. According to these Rules, the Panchayat Samitis can grant loans for different types of schemes specified in the Rules. The loans can be granted for short term (recoverable in 18 months), for medium term (recoverable in 5 years but after 18 months), and for long term (recoverable after 5 years).

37. *Budget of the Panchayat Samiti.*—(1) The Vikas Adhikari shall, before the prescribed date in each year, frame and place before the Panchayat Samiti a complete account of the actual receipts and expenditure upto prescribed date and expected receipts and expenditure for the financial year ending on 31st March next following, together with budget estimates of the income, expenditure and other receipts of the Panchayat Samiti for the financial year to commence on the first day of April next following.

(2) The Panchayat Samiti shall thereupon decide upon the appropriations and the ways and means contained in the budget estimates.

(3) in such estimates, the Panchayat Samiti shall, among other things—

(a) make adequate and suitable provision for such services as may be required for the fulfilment of the several duties imposed on the Panchayat Samiti by this Act or any other law;

(b) provide for the payments, as they fall due, of all instalments of principal and interest for which the Panchayat Samiti may be liable in respect of loans contracted by it;

(c) allow for a balance at the end of the said year of not less than such sum as may, from time to time, be fixed by the State Government.

(4) The budget estimates as finally passed by the Panchayat Samiti shall be submitted by the Vikas Adhikari, on or before such date as may be prescribed to the District Development Officer, who shall, after scrutiny, place the same with his comments before the Zila Parishad within the prescribed time. If the Zila Parishad is satisfied that adequate provision has not been made in the budget estimates to give effect to the provisions of this Act, it shall have the power to suggest such modifications as may be necessary to secure such provision and return it to the Panchayat Samiti with its observations regarding the modifications to be made therein. The Panchayat Samiti shall consider such observations and pass the budget with such modifications as it deems fit :

Provided that, if the Zila Parishad fails to return the budget to the Panchayat Samiti within the time prescribed in this behalf, the Panchayat Samiti may incur the expenditure on committed items and other items of expenditure for which the Panchayat Samiti has or will raise its own resources and the programme to be taken up is in conformity with the priorities assigned to the various programmes in the State Plan :

Provided further that no expenditure shall be incurred by the Panchayat Samiti on any item of expenditure for which a matching grant is to be obtained till such time as the budget is returned by the Zila Parishad.

(5) If, in the course of a year, a Panchayat Samiti finds it necessary to make any alterations in the budget with regard to its receipts or the distribution of the amounts to be expended for the purposes of this Act, a supplementary or additional budget may be framed, passed, submitted and modified in the manner provided in sub-sections (1), (2) and (4).

38. *Accounts and Audit.*—(1) A Panchayat Samiti shall keep such accounts and submit such statements to the State Government and the Zila Parishad as may be prescribed.

(2) Accounts of receipts and expenditure of every Panchayat Samiti shall be maintained for every financial year in such form as may be prescribed.

(3) An abstract of the annual accounts of a Panchayat Samiti showing its income under each head of receipt, the charges for the establishment, works undertaken, the sum expended on each work, the balance, if any, remaining unexpended and such other information as may be required by rules, shall be prepared in the prescribed form by the Vikas Adhikari who shall place the same

before the Panchayat Samiti for approval. After such approval, the abstract of the annual accounts shall be sent to the District Development Officer who shall in turn submit the same, with his comments thereon, to the State Government and the Zila Parishad not later than the 15th day of the second month of the next financial year.

(4) The Vikas Adhikari shall also submit a quarterly statement in the prescribed form, of income and expenditure of the Panchayat Samiti to the District Development Officer who shall place the same before the Zila Parishad with his comments.

(5) All accounts kept and maintained by the Panchayat Samiti shall be audited, as soon as may be after the end of each financial year, by the Examiner of Local Fund Audit for the State and the provisions of the Rajasthan Local Fund Audit Act, 1964 (Rajasthan Act 28 of 1954) shall apply :

Provided that the Comptroller and Auditor General of India may also carry out a test audit of such accounts.

(6) The Panchayat Samiti shall be bound to comply with all such directions as the State Government may think fit to issue after going through the audit report in respect of its accounts.

(7) The Panchayat Samiti shall pay out of the Panchayat Samiti Fund such sum as may be determined by the State Government by way of charges for such audit.

39. *Motion of no-confidence in Pradhan or Up-Pradhan.*—(1) A motion expressing want of confidence in the Pradhan or the Up-Pradhan of a Panchayat Samiti may be made in accordance with the procedure laid down in the following sub-sections.

(2) A written notice of intention to make the motion in such form as may be prescribed, signed by not less than one-third of the total number of members of the Panchayat Samiti [other than those specified in clauses (iii) and (v) of sub-section (1) of section 8] together with a copy of the proposed motion, shall be delivered in person, by any one of the members signing the notice, the Collector having jurisdiction over the Panchayat Samiti.

(3) The Collector shall thereupon—

(i) forward a copy of the notice, together with a copy of the proposed motion, to the Pramukh of the Zila Parishad having jurisdiction over the block,

who shall place the same before the Zila Parishad for its information at the next meeting thereof;

(ii) convene a meeting for the consideration of the motion at the office of the Panchayat Samiti on a date appointed by him, which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him: and

(iii) give to the members notice of not less than fifteen clear days of such meeting in such manner as may be prescribed.

Explanation.—In computing the period of thirty days specified in this subsection, the period during which a stay order, if any, issued by a competent court on a petition filed against the motion made under the section is in force, shall be excluded.

(4) The Collector shall preside at such meeting :

Provided that if, for reasons to be recorded in writing, he is unable to do so, the Additional Collector shall so preside.

(5) A meeting convened for the purpose of considering a motion under this section shall not be adjourned.

(6) As soon as the meeting convened under this section commences, the Collector shall read to the Panchayat Samiti the motion for the consideration of which the meeting has been convened and declare it to be open for debate.

(7) No debate on the motion under this section shall be adjourned.

(8) Such debate shall automatically terminate on the expiration of two hours from the time appointed for the commencement of the meeting; if it is not concluded earlier. On the conclusion of the debate or on the expiration of the said period of two hours, whichever is earlier, the motion shall be put to vote.

(9) The Collector shall not speak on the merits of the motion and he shall not be entitled to vote thereon.

(10) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon, shall be forwarded forthwith on the termination of the meeting by the Collector to the State Government and to the Zila Parishad having jurisdiction.

(11) If the motion is carried with the support of not less than two-thirds of the total number of members of the Panchayat Samiti,

(a) the Collector shall cause the fact to be published by affixing a notice thereof on the notice board of the office of the Panchayat Samiti and by notifying the same in the Official Gazette, and

(b) the Pradhan or Up-Pradhan, as the case may be, shall cease to hold office as such and vacate the same on and from the date on which the said notice is affixed on the notice board of the office of the Panchayat Samiti;

¹[Provided that such Pradhan shall continue to hold office as a member of the Panchayat Samiti as Provided in clause (v) of sub-section (5A) of section 12.]

(12) If the motion is not carried as aforesaid or if the meeting could not be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same Pradhan or Up-Pradhan shall be made until after the expiration of six months from the date of such meeting ¹[and such subsequent motion,—

(a) in the case of an Up-Pradhan, if supported by a majority of the total number of members of the Panchayat Samiti, shall be deemed to be carried and the other provisions of sub-section (11) shall apply; and

(b) in the case of a Pradhan, if supported by a majority of the members of the electoral college consisting of the persons referred to in clause (a) of sub-section (1) of section 12 present and voting shall be deemed to be carried and provisions of sub-section (2) shall apply as if for the words “not less than one third,” the words “more than one-half” were substituted therein, and other provisions of sub-sections (3) to (11) shall apply as if a reference therein to “Panchayat Samiti” were a reference to such electoral college and reference to “meeting” or “members” were a reference respectively to the meeting or member of such electoral college.]

(13) No notice of a motion under this section shall be made within six months of the assumption of office by a Pradhan or Up-Pradhan, as the case may be.

³[(14) The quorum to constitute a meeting for the consideration of a no-confidence motion against the Pradhan or Up-Pradhan shall be one third of the total number of persons entitled to vote thereat.]

¹ Added retrospectively from 9—11—60 by section 19 of Rajasthan Act No. 11 of 1961, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5—4—61.

² Subs. by sec. 19 (b) of Raj. Act No. 32 of 1964, pub. in Raj. Gazette, Part IV-A, dated 3-12-64.

³ Subs. by sec. 19(c)—ibid.

(5) A Pradhan, Up-Pradhan or member against whom findings have been recorded under sub-section (4) shall also incur the disqualification mentioned in sub-section (3).]

Comments

Removal for disgraceful conduct.—

This section has been amended twice—once by the Rajasthan Panchayat Samitis & Zila Parishads (Amendment) Act, 1961 and again by the Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Act, 1964. By the first amendment, powers were given to the State Govt to remove a member of a Panchayat Samiti for certain acts or omissions done in the discharge of his official duties. With the second amendment, a Pradhan or Up-Pradhan or a member of a Panchayat Samiti can be removed from his office for disgraceful conduct not directly related to his official duties. If for example, a Pradhan or a member of the Panchayat Samiti is found guilty of committing rape or any such offence involving moral turpitude or is guilty of such conduct which may be regarded as disgraceful by the Government, such a person can also be removed from his office after following the prescribed procedure.

41. Filling up of vacancies caused by action taken under section 39 and 40.—

When the Pradhan or Up-Pradhan, as the case may be, ceases to hold and vacates his office under section 39 [or when the Pradhan or Up-Pradhan or member, as the case may be, is removed from his office under section 40] the vacancy so caused shall, subject to the provisions contained in section 15 and sub-section (3) of section 40, be filled in the manner specified in section 12 ²[or in section 18 as the case may be.]

CHAPTER III

ZILA PARISHADS

42. Constitution, incorporation and composition of Zila Parishads.—(1) The State Government may, by notification in the Official Gazette, constitute a Zila Parishad for a district with effect from such date as may be specified therein.

1. Substituted retrospectively from 9—11—60 by section 21 of Rajasthan Act No. 11 of 1961, published in Raj. Gazette, Extraordinary, Part IV-A dated 6—1—61

2. Inserted—ibid.

(2) Every Zila Parishad shall bear the name of the district for which it is constituted and shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of Property and to enter into contracts and may, by its corporate name, sue and be sued.

(3) Every Zila Parishad shall consist of the following members. namely:—

¹[Ex-Officio members]

(i) the Pradhans of all Panchayat Samitis in the district;

Provided that if any Pradhan of a Panchayat Samiti refuses to be a member of the Zila Parishad or resigns such membership or otherwise ceases to be such member, he shall, as from the date of such refusal, resignation or cessation, cease to be the Pradhan of the Panchayat Samiti and the person who succeeds him in such office shall be the member of the Zila Parishad:

Provided further that—

(a) if the office of the Pradhan of a Panchayat Samiti in the district is vacant, the Up-Pradhan thereof shall, until the vacancy is filled up, be the member of the Zila Parishad, and

(b) if the offices of the Pradhan and the Up-Pradhan of a Panchayat Samiti in the district are vacant, any person elected by the Panchayat Samiti from among its members shall, until either of the two vacancies is filled up, be the member of the Zila Parishad;

(ii) the members of the Council of States residing in the district;

(iii) the members of the House of the People elected from a constituency which is included in or forms part of the district;

(iv) the members of the Legislative Assembly of the State elected from the district :

Provided that, if any member of the House of the People or the State Legislative Assembly has been elected from a constituency which lies in more than one district, such member shall be a member of the Zila Parishads of all such districts: ²[× × ×]

Provided further that, where a person ceases to be a member of the Council of States or the House of the People or of the State Legislative Assembly

1. Inserted by sec. 20(a)(i) of Raj. Act No. 92 of 1964 published in Raj. Gaz. Part IV—
Extr. dated 3—12—64,

2. Omitted by sec. 20 (a) (ii) *ibid*.

(B) *Co-opted members:—*

- (1) Two women if no woman is the member of the Zila Parishad by virtue of sub-section (3), and one woman if only one woman is such member.
- (2) One person belonging to the Scheduled Caste, if no such person is member of the Zila Parishad by virtue of sub-section (3).
- (3) One person belonging to the Scheduled tribes, if no such person is the member of the Zila Parishad by virtue of sub-section (3) and the population of the such tribes in the district exceeds 5% of the total population of the District.

The section as amended has done away with the co-option of two persons having experience in administration, public life and rural development by the deletion of clause (e) of sub-section (4).

(C) *Associate Members:—*

- (1) President of the Central Cooperative Bank in the District,
- (2) Chairman of the District Cooperative Union, if any.

The M. L. As. and M. Ps. will be full members of the Zila Parishad and will have voting rights and will also be entitled to hold any elective office in the parishad. The Associate Members will have a right to speak in or otherwise participate in the proceedings of the Zila Parishad or in any Committee thereof but shall not be entitled to vote thereat except in the proceedings relating to such matters of production programmes as may be prescribed. They shall not be eligible to be elected as Pramukh or Up-Pramukh or become Chairman of any Standing Committee.

¹[43. *Additional members of Zila Parishads.*—A Pradhan or Up-Pradhan of a Panchayat Samiti referred to in sub-section (4) of section 45 shall, so long

as he continues to hold the office of the Pramukh of a Zila Parishad, be, subject to the provisions contained in sub-section (5A) of section 12, an additional member of that Zila Parishad.]

44. *Special meeting for co-option.*—(1) Whenever the co-option¹ of a member or members under sub-section (4) of section 42 is necessary, the ¹[Collector] shall, on a date previously to the date appointed for the constitution of a Zila Parishad under sub-section (1) of section 42, convene for such co-option at the office of the Zila Parishad at the appointed time a special meeting of the members specified in ²[clauses (i), (ii), (iii) and (iv) of] sub-section (3) of section 42 after giving them a notice of not less than seven clear days of such meeting.

(2) The ¹[Collector] or Additional Commissioner ³[or any other subordinate officer specially appointed for the purpose by the State Government] shall preside at such meeting ³[as the ¹[Collector] may nominate.]

(3) If for want of the necessary quorum or for any other sufficient reasons the member of the Zila Parishad referred to in sub-section (1) fail to co-opt members specified in sub-section (4) of section 42, the ¹[Collector] or Additional Commissioner ³[or other subordinate officer] presiding over the meeting shall adjourn the same to any other date not less than seven days after the date appointed under sub-section (1) and the presence of the necessary quorum shall not be required at such adjourned meeting.

(4) A notice of the date fixed for the adjourned meeting shall be affixed on the notice board of the office of the Zila Parishad and shall be despatched by post under a certificate of posting individually to the members specified in ²[clauses (i), (ii), (iii) and (iv) of] sub-section (3) of section 42 immediately after the adjournment of the previous meeting under sub-section (3) and upon such despatch the notice shall be regarded as having been served on the members within the ordinary course of the post.

(5) The ¹[Collector] or Additional Commissioner ³[or any other subordinate officer specially appointed for the purpose by the State Government] shall preside at such adjourned meeting also and, if at such meeting the members of the Zila Parishad

1. Substituted by item (20) of schedule to Rajasthan Act No 8 of 1962, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 28/4/62.

2. Ins. by sec. 21 of Act No. 32 of 1964.

3. Inserted and shall be deemed to have been inserted from 12-11-60, by section 24 of Raj. Act No 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV—A dated 5-4-61.

(1-A) A Pramukh shall, unless he is already a member, be an additional member of the Zila Parishad and shall, in all respects and for all purposes be deemed to be an ex officio member specified in clause (1) of sub-section (3) of section 42.]

(2) As soon as may be after the co-option of members mentioned in sub-section (4) of section 42 and as often as the office of the Pramukh becomes vacant, [election to the office of the Pramukh shall be conducted in the prescribed manner]

(3) As soon as may be after the election of the Pramukh of the Zila Parishad and as often as the office of the Up Pramukh becomes vacant, a meeting for electing the Up-Pramukh shall be convened by the Pramukh in the prescribed manner.

(4) Every election, under sub-section (2) or under sub-section (3) shall be by secret ballot and, if the Pradhan or Up Pradhan of a Panchayat Samiti is elected as Pramukh of the Zila Parishad, he shall, on and from the date of his election as such, cease to be, and vacate the office of, the Pradhan or Up-Pradhan of the Panchayat Samiti, but such cessation shall not in any way affect his election as such Pramukh and he shall continue to hold the office of pramukh as though he had been duly elected to that office as an additional member of the Zila Parishad:

[Provided that to the Pradhan or Up-Pradhan elected as such Pramukh who is the Sarpanch of a Panchayat, the provisions of sub-section (5A) of section 12 shall *mutatis mutandis* apply.]

(5) The Provisions of the sub-sections (6) and (7) of section 12 and of section 13 shall apply *mutatis mutandis* to the Pramukh or Up-Pramukh and to his election.

Comments

A Pramukh will be elected by the following members of the Zila Parishad: —

- (1) Pradhans,
- (2) Members of the Parliament,
- (3) M. L. As.,
- (4) Co-opted members of the Zila Parishad, and

1. Subs. by section 22 (b) of Raj. Act 32 of 1961, pub. in Raj. Gaz. Part IV—A Extr. dated 3—12—61.

2. Added retrospectively from 9/11/60 by section 25 (ii) of Rajasthan Act No. 11 of 61, published in Rajasthan Gazette, Extraordinary, part IV—A, dated 5-4-61.

by all the members of the Panchayat Samitis in the District specified in clauses (i), (ii) (iii-a) and (iv) of sub-section (1) of section 8 of the Act, i. e. all the elected and co-opted members of the Panchayat Samitis in the district and all members of the Z. parishad specified in clauses (i) (ii) (iii) (iv) and (iv-b) of sub-sec. (5) of Sec. 42, excluding the Associate Members and the sub-Divisional Officer. The Up-pramukh shall be elected in accordance with the rules, by the members of the Zila Parishad specified in clauses (i), (ii), (iii), (iv), and (iv-B) of sub-section (3) of section 42, i. e. the Pradhans of all Panchayat Samitis in the Dist., Members of the Parliament, M. L. As., and the coopted members of the Zila Parishads from amongst themselves.

The provision is similar to that of an election of a Pradhan, in that any person, who is a resident of, and a voter of any Panchayat or Municipal Board or a member of the Gram Sabha in the Dist., and is able to read and write Hindi can be elected as a Pramukh and he need not be a member of the Zila Parishad. But only a member of the Zila Parishad (not an associate member) can be elected as an Up-Pramukh.

46. *Term of office.*—(1) Subject to the provisions contained in sub-section (2), the term of office of a Zila Parishad shall be three years² [with effect from such date as may be notified by the State Government in this behalf:]

²[Provided that the State Government may, by notification in the official Gazette, extend from time to time, the said term by a period not exceeding one year in the aggregate:

Provided further that]

the term of office of a first Zila Parishad constituted under this Act before the 31st of January, 1961, ¹[or such other date notified by the State Government in behalf] shall not extend beyond that date.

³[(1-A) Notwithstanding anything contained in sub-section (1), the term of the Zila Parishads as existing on the date of commencement of the Rajasthan Panchayat Laws (Amendment) Act 1964, shall be extended upto the 31st day of

1. Inserted retrospectively from 28-10-60 by section 26 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Subs. by sec. 4 Raj. Act No. 2 of 1964, Part IV-A, Extra dated 24-3-1964.

3. Added by sec. 23 (a) of Raj. Act No. 32 of 1964, pub. in Raj. Gaz, Part IV-A, Extra dated 3-12-1964.

March, 1965 or such earlier date as may be notified by the State Government in this behalf.]

(2) Save as otherwise provided in this Act—

(i) a member specified in clause (i) of sub-section (3) of section 42 shall hold office so long as he continues to be the Pradhan of the Panchayat Samiti,

(ii) a member specified in clauses (ii), (iii), (iv) [(v) and vi] of sub-section (3) of section 42 shall hold office so long as he continues to be the member of the Council of States or of the House of the People or of the State Legislative Assembly from that district, or the President or Vice-President of the Central Co-operative Bank ²[or the Chairman, District Co-operative Union] in the district, as the case may be;

(iii) a member co-opted under sub-section (4) of section 42 shall hold office for the full term of the Zila Parishad, and

(iv) any vacancy occurring in the office of a co-opted member shall be filled by co-option of another person in his place in the manner laid down in section 44:

Provided that the meeting for such co-option shall be convened and presided over by the Pramukh or in his absence by the Up-Pramukh.

47. *Disqualification.*—The provisions of sections 15, 16 and 17 shall apply *mutatis mutandis* to the members ⁴[(other than the member specified in clause (iv-a) of sub-section (3) of section 42) or Pramukh of the Zila Parishad].

48. *Resignation of Pramukh or certain members.*—The Pramukh, the Up-Pramukh or any member other than an ex-officio member of a Zila Parishad ³[specified in clause (iv-a) of sub-section (3) of section 42] may resign his office as such Pramukh, Up-Pramukh or member, by giving notice, in writing under his hand, to the Zila Parishad. Such resignation shall take effect from the date on which the notice thereof is received by the Secretary of the Zila Parishad:

Provided that the resignation of the Pramukh shall take effect on and from the date on which the sanction of the State Government thereto is received in the office of the Zila Parishad.

1. Subs. by sec. 23 (b) (i) of Raj. Act No. 32 of 1964.

2. Added by sec. 23 (b) (ii) *ibid.*

3. Ins. by sec. 24 *ibid.*

4. Subs. by sec. 11 of Raj. ordinance No. 8 of 1964, pub. in Raj. Gaz. Extra

49. *Motion of no-confidence in Pramukh or Up-Parmukh.*—In relation to a proposed motion of no-confidence in the Pramukh or UP-Pramukh of a Zila Parishad, the provisions of section 39 shall *mutatis mutandis*, apply, subject to the variation that for the expressions “Pradhan” “Up-Pradhan”, “Panchayat Samiti”, “Collector” and “Pramukh of the Zila Parishad having jurisdiction over the block” the expressions “Pramukh”, “Up-Pramukh”, “Zila Parishad”, “Commissioner” and “State Government” shall respectively be substituted.

50. *Standing Committees of the Zila Parishad.*—(1) Every Zila Parishad shall constitute four Standing Committees, hereinafter in this Act referred to as sub-committees, one for each of the groups of subjects specified in sub-section (1) of section 20, and may constitute the fifth committee for any of the subjects specified in any group or groups of subjects as aforesaid.

(2) In relation to the constitution, term of office, and conduct of business, of such committees and other cognate matters, the provisions of section 20 shall *mutatis mutandis* apply subject to the variation that for the expressions “Pradhan,” “Up-Pradhan” and “Panchayat Samiti”; the expressions “Pramukh,” “Up-Pramukh” and “Zila Parishad” shall respectively be substituted.]

51. *Meetings of Zila Parishad.*—The Zila Parishad shall meet as often as may be necessary provided that not more than three months shall elapse between any two meetings of the Zila Parishad.

52. *Rules for conduct of business.*—Every Zila Parishad and every sub-committee thereof shall, in regard to the conduct of business at its meetings, follow such procedure as may be prescribed.

53. *Rights of District Development officer and other officers.*—(1) The District Development Officer shall be entitled to attend meetings of the sub-committee of the Zila Parishad and shall have the right to participate in the deliberations thereof.

(2) All officers of the State Development Department shall be entitled to attend the meetings of the Zila Parishad or a sub-committee thereof and to participate in the deliberations of such meetings relating to matters concerning their departments.

54. *Power of Zila Parishad to require attendance of officers.*—(1) If it shall appear necessary to a Zila Parishad that the presence of any division level

officer of Government is desirable at any of its meetings for the purpose of obtaining his views or any information from him on any point or points having a bearing on the duties and functions of the Zila Parishad under this Act, it shall be competent to such Zila Parishad, by letter addressed to such officer not less than fifteen days previously to the intended meeting, to require his presence thereat, and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting :

Provided that such officer, on receipt of such letter, may, if unable to be present himself, instruct a deputy or assistant or other competent subordinate as to his views or as to the information available with him, and send him to the meetings, as his representative instead of appearing thereat in person.

(2) If it shall appear necessary to a Zila Parishad that the presence of any of the officers mentioned in sub-section (2) of section 53 is necessary at any of its meetings it may likewise require his presence thereat.

55. *Appointment of Secretary.*—(1) The State Government shall appoint a Secretary for each Zila Parishad.

(2) Every Secretary shall be a member of a State Service or a person holding a post under the State Government and shall be liable to transfer by the State Government in consultation with the Pramukh.

56. *Powers and functions of Secretary.*—The Secretary of a Zila Parishad shall—

(a) issue, under instructions of the Pramukh, notices for the meetings of the Zila Parishad and the sub-committees thereof,

(b) be present at such meetings and record and keep the minutes thereof,

(c) carry out the decisions and resolutions of the Zila Parishad and its sub-committees,

(d) work as drawing and disbursing officer of the Zila Parishad:

Provided that the Pramukh may, for reasons to be recorded in writing, stop any payment and place the matter before the Zila Parishad, and

(e) exercise such other powers and perform such other functions as are conferred or imposed on him by or under this Act or as may be delegated to him under section 84.

4
54 THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA PARISHADS ACTS, 1959.

57. *Powers and functions of the Zila Parishad.*—Every Zila Parishad shall have the power to—

(i) examine according to rules made in this behalf the budgets of the Panchayat Samitis in the district;

(ii) distribute among the Panchayat Samitis the adhoc grants allotted to the district by the State Government;

(iii) co-ordinate and consolidate the plans prepared by the Panchayat Samitis;

(iv) co-ordinate the work of the Panchayats and the Panchayat Samitis;

(v) exercise and perform such other powers and functions in relation to any development programme as the State Government may, by notification, confer on or entrust to it;

(vi) exercise and perform such powers and functions as are conferred on and delegated or entrusted to it by or under this Act;

(vii) classify fairs and festivals, other than those that are or may hereafter be managed by the State Government, as Panchayat fairs and festivals and Panchayats Samiti fairs and festivals and review, upon a representation made in that behalf by a Panchayat or a Panchayat Samiti, such classification;

(viii) classify roads (other than national highways, State highways and major district roads) as Panchayat Samiti roads and village roads;

(ix) supervise generally the activities of the Panchayat Samitis in the district;

(x) organise camps, conferences and seminars of all Sarpanchas. Pradhans and other Panchas, and members of Panchayats and Panchayat Samitis in the district;

(xi) advise the State Government on all matters concerning the activities of Panchayats and Panchayat Samitis;

(xii) advise the State Government on matters concerning the implementation of any satutory or executive orders specially referred by the State Government to the Zila Parishad;

(xiii) advise the State Government on all matters relating to the implementation within the district of the various schemes under the Five Year Plans;

(xiv) watch over all agricultural and production programmes, construction programmes, employments and other targets laid down for the district and see that they are being properly carried out, accomplished and implemented and review at least twice a year the progress of such programmes and targets;

(xv) collect such data as it deems necessary;

(xvi) publish statistics or any other information relating to the activities of the local authorities in the district; and

(xvii) require any local authority to furnish information regarding its activities.

58. *Powers and functions of the Pramukh and Up-Pramukh.*—(1) The Pramukh of a Zila Parishad shall—

(a) convene, preside over and conduct its meetings,

(b) have full access to its records,

(c) exercise administrative control over its Secretary and the staff working in its secretariate.

¹[(cc) consider and sanction the resignation of the Pradhan of a Panchayat Samiti within the district.]

(d) encourage the growth of initiative and enthusiasm in the Panchayats and provide to them guidance in the plans and production programmes undertaken by them and the growth of co-operative and voluntary organisation therein,

(e) exercise such other powers as are conferred on him by or under this Act or as may be delegated to him under section 84;

(2) In order to enable him to assess the activities of the Panchayat Samitis in the district and study their programmes and problems, the Pramukh may from time to time—

(i) visit the blocks in the districts; and

(ii) inspect the works undertaken and the records maintained by the Panchayat Samitis in the district and generally the working thereof, with a view to guide and tender advice to the Panchayat Samitis, their Pradhans, their Vikas Adhikaries and their members, so that healthy relations may develop

among them as well as between the Panchayat Samitis and Panchayats in each block and production programmes increase in accordance with the broad policies laid down upto the targets fixed in that behalf. A report of such inspections and activities shall be made by the Pramukh to the Zila Parishad with particular reference to any defects that he may have noticed.

(3) The Pramukh shall at the end of every year send a report as to the work of the Secretary of the Zila Parishad during that year to the District Development Officer who shall append the same with the confidential report of the Secretary.

(4) When the office of the Pramukh is vacant the Up-Pramukh of the Zila Parishad shall exercise the powers and perform the functions of the Pramukh of the Zila Parishad until a new Pramukh is elected.

(5) Whenever the Pramukh is absent on leave, his functions shall, during the period of such leave, devolve on the Up-Pramukh.

(6) When the office of the Pramukh is vacant or he is absent on leave and there is a vacancy in the office of the Up-Pramukh or the Up-Pramukh is also on leave, the powers and functions of the Pramukh shall devolve on a member of the Zila Parishad elected by its members in the prescribed manner.

(7) The member of the Zila Parishad who is so elected shall be called the temporary Pramukh and he shall exercise the powers and perform the functions of the Pramukh subject to such restrictions and conditions as may be prescribed until a new Pramukh or Up-Pramukh is elected and assumes office, or until either the Pramukh or the Up-Pramukh returns from leave.

59. *Powers of direct Development Officer.*—The District Development Officer shall have power—

(a) to examine the extent of progress achieved in the execution of various schemes and the implementation of the decisions and resolutions of the Zila Parishad and to make suggestions for improvements, if any,

(b) to co-ordinate the work of various Development Departments of the State Government at the district level.

(c) to examine that the amounts placed at the disposal of a Panchayat Samiti are being properly utilised for the purposes for which they are earmarked, that the minimum standards of service are maintained in institutions run by Panchayat Samitis in the district and that the Vikas Adhikari and his team are fully playing their role as extension staff,

(d) to make a report to the Zila Parishad as to all matters embodied in clauses (a), (b) and (c), and

(e) to perform such other functions and to discharge such duties as are imposed on him by or under this Act or as may be delegated to him under section 84.

60. *Staff of Zila Parishads.*—The provisions of section 31 shall apply in relation to the staff of a Zila Parishad other than the Secretary, subject to such variation that for the expressions "Panchayat Samiti" and "Vikas Adhikari" occurring therein the expressions "Zila Parishad" and "Secretary" shall respectively be substituted.

61. *Allowance to members.*—The members of the Zila Parishad including the Pramukh and Up-Pramukh and the members of sub-committees thereof shall be paid such allowances, at such rates and in such circumstances as may be prescribed:

Provided that only one allowance shall be admissible for one day.

62. *Zila Parishad Fund.*—(1) All moneys received by a Zila Parishad shall be credited to and constitute a fund to be called the 'Zila Parishad Fund' and shall be applied for the purposes specified in this Act and for such other purposes and in such manner as may be prescribed.

(2) All moneys received by the Zila Parishad shall be lodged in the nearest Government treasury or sub-treasury.

(3) All orders for payments out of or cheques drawn against the Zila Parishad Fund shall be signed by the Secretary of the Parishad:

Provided that such orders and cheques for amounts exceeding five thousand rupees shall be countersigned by the Pramukh of the Zila Parishad.

(4) To defray the current expenses of a Zila Parishad such sums as the State Government may in each case deem sufficient may be kept to the credit of the Secretary of the Zila Parishad by way of advance money.

ame (2) The expenses of the Zila Parishad shall include the salaries and
bloc allowances of its officers and servants, allowances to its members and any item
laid of expenditure directed by the State Government for carrying out the purposes
acti of this Act and such other expenses as may be necessary for such purposes:

refe Provided that the payment of the salaries and allowances of the officers
and servants of the Zila Parishad and of allowances to its members shall be a
wor first charge upon the fund of the Zila Parishad and such charge shall be enforced
in the prescribed manner.

Dev 64. *Budget of the Zila Parishad.*—(1) The Secretary shall before the pres-
the cribed date in each year, frame and place before the Zila Parishad a complete
account of the actual receipts and expenditure upto a prescribed date and
Zila expected receipts and expenditure for the financial year ending on 31st March
of 1 next following, together with budget estimates of the income, expenditure and
other receipts of the Zila Parishad for the financial year to commence on the
first day of April next following.

the (2) The Zila Parishad shall thereupon decide upon the appropriations
and the ways and means contained in budget estimates.

the (3) In such estimates the Zila Parishad shall, among other things—
on
of

(a) make adequate and suitable provision for such services as may be
required for the fulfilment of the several duties imposed on the Zila Parishad by
this Act or any other law;

(b) allow for a balance at the end of the said year of not less than such
sum as may from time to time, be fixed by the State Government.

(4) The budget estimates as finally passed by the Zila Parishad shall be
submitted by the Secretary, on or before such date as may be prescribed, to the
State Government and, if the State Government is satisfied that adequate pro-
vision has not been made therein for giving effect to the provisions of this Act, it
shall have the power to suggest such modifications as may be necessary to
secure such provision and return it to the Zila Parishad with its observations
a regarding the modifications to be made therein. The Zila Parishad shall consider
such observations and pass the budget with such modifications as it deems
St necessary:

Provided that, if the State Government fails to return the budget to the
Zila Parishad within the time prescribed in this behalf, the Zila Parishad may
S^e incur the expenditure on committed items.

(5) If, in the course of a year, the Zila Parishad finds it necessary to
modify the figures shown in the budget estimates with regard to its receipts or to
a

the distribution of the amounts to be expended for the purposes of this Act, a supplementary or revised budget may be prepared, approved, submitted and modified in the manner provided in sub-sections (1) and (4).

65. *Accounts and Audit.*—The provisions of section 38 shall *mutatis mutandis* apply to the accounts of a Zila Parishad and the audit thereof.

CHAPTER IV

EXTERNAL CONTROL

66. *Power of cancelling or suspending resolution of a Panchayat Samiti.*—(1) The State Government may, by an order in writing, cancel any resolution or order passed by a Panchayat Samiti or any standing committee thereof if in its opinion such resolution is not legally passed or is in excess or abuse of the powers conferred by or under this Act or under any law for the time being in force, or if its execution is likely to cause danger to human life, health or safety or is likely to lead to a breach of the peace.

(2) The State Government shall, before taking action under sub-section (1), give to the Panchayat Samiti a reasonable opportunity for explanation.

(3) If, in the opinion of the Collector, immediate action is necessary to suspend a resolution on the ground that its execution is likely to cause danger to human life, health or safety or is likely to lead to a breach of the peace, he may, by order in writing, suspend the resolution and make a report to the State Government, whose decision thereon shall be final.

(4) The State Government may, of its own motion or on a representation made by the Panchayat Samiti, call for the record of the case in which such order was passed and pass such order in relation thereto as it may deem fit; but the State Government shall not pass any order prejudicial to the Panchayat Samiti unless it is given an opportunity for explanation.

¹[(66A. *Power to provide for performance of duties in default of Panchayat Samiti or Zila Parishad.*—(1) On complaint made, or otherwise, that a Panchayat Samiti or a Zila Parishad has made default in performing any duty imposed upon it by or under this Act and if satisfied after due inquiry that a Panchayat Samiti or a Zila Parishad has been guilty of the alleged default, the State Government may by order in writing fix a period for the performance of the duty, and such order shall be forthwith communicated to the Panchayat Samiti or the Zila Parishad, as the case may be.

1. Inserted and shall be deemed to have been inserted from 12-12-60 by section 28 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV—A, date 5—4—61.

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(2) If that duty is not performed within the period so fixed, the State Government may appoint some person to perform it and direct that the expenses incurred in the performance of such duty together with a reasonable remuneration to the person appointed to perform it shall be forthwith paid by the Panchayat Samiti or the Zila Parishad, as the case may be.

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(3) If the expenses and the remuneration are not so paid, the State Government may make an order directing the person having the custody of the balance of the Panchayat Samiti Fund or the Zila Parishad Fund, as the case may be, to pay the expenses and the remuneration or such part thereof as is possible from that balance.]

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67. *Power of Government to supersede or dissolve a Panchayat Samiti or Zila Parishad.*—¹[(1)] If at any time it appears to the State Government that a Panchayat Samiti or a Zila Parishad has failed to exercise its powers or perform its functions or has exceeded or abused any of the powers conferred upon it by or under this Act or any other law for the time being in force, the State Government may direct the Panchayat Samiti or, as the case may be, the Zila Parishad to remedy such failure, excess or abuse or to give a satisfactory explanation therefor and if, the Panchayat Samiti or the Zila Parishad fails to comply with such direction, the State Government may supersede the Panchayat Samiti or the Zila Parishad, as the case may be, for a period not exceeding one year from a specified date or dissolve it with effect from a specified date and reconstitute it either immediately or with effect from another specified date and cause any or all of the powers and functions of the Panchayat Samiti or the Zila Parishad to be exercised and performed by such person or authority as the State Government may appoint in that behalf during the period of its supersession or until the Panchayat Samiti or the Zila Parishad is reconstituted in accordance with the provisions of this Act and any person or authority so appointed may, if the State Government so directs, receive remuneration for the services rendered from the fund of the Panchayat Samiti or the Zila Parishad, as the case may be.

²[(2) Notwithstanding anything contained in section 14 or section 46 or in any other provision of this Act the term of office of a Panchayat Samiti or a Zila Parishad, which has been reconstituted upon supersession or dissolution of any earlier Panchayat Samiti or Zila Parishad, as the case may be, under subsection (1) shall be the residue of the term of such superseded or dissolved Panchayat Samiti or Zila Parishad].

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1. Re-numbered by section 29 of Raj. Act No. 11 of 1961 from 28—10—60—ibid,

2. Inserted retrospectively from 23-10-70 by section 29 of Rajasthan, Act No. 11 of 1961, published in Rajasthan Gazette Extraordinary, Part IV—A, dated 5-1-61.

68. *Powers of entry and inspection.*—(1) The Collector may enter on and inspect—

(a) any immovable property or any work in progress under the control of any Panchayat Samiti,

(b) any school, hospital, dispensary, vaccination station, poultry farm or other institution maintained by or under the control of any Panchayat Samiti and any records, registers or other documents kept in such institution, and

(c) the office of any Panchayat Samiti and any records, registers or other documents kept therein.

(2) The Panchayat Samiti, shall be bound to afford to the Collector such access at all reasonable times to its property or premises and to all documents as may, in his opinion, be necessary to enable him to discharge his duties under sub-section (1).

69. *Duties and powers of Collector.*—In addition to the powers conferred on him by any provision of this Act the Collector shall have power —

(a) to ensure that technical assistance is made available to Extension Officers by the connected departments of the State Government.

(b) to see that adequate precautions are taken and sufficient provisions are made for the recovery and repayment of loans advanced by the State Government to Panchayat Samitis.

(c) to see that Panchayats and Panchayat Samitis are provided with necessary assistance in the early recovery of their dues whether as tax or on account of loans, and

(d) to watch and report to the State Government as to whether priorities fixed in the plans are being adhered to and the general pattern of work is in conformity with the policies laid down by the State Government or by the Central Government.

CHAPTER V

MISCELLANEOUS

70. *Abolition of District Boards.*—(1) Notwithstanding any thing contained in the Rajasthan District Boards Act, 1954 (Rajasthan Act 1954 of 1954)

in any other corresponding law in force in any part of the State, the State Government may, by notification in the Official Gazette, abolish all or any of the District Boards in the State with effect from such date as may be specified in the notification.

(2) On the abolition of a District Board under sub-section (1), all assets vesting in it and all liabilities subsisting against it on the date of abolition shall devolve on the State Government.

(3) The State Government may transfer the said assets and liabilities to such officers and authorities, to such extent and in such manner, as the State Government may, by order, direct.

(4) Any taxes that were being levied and collected by an abolished District Board immediately before the date of its abolition shall, if such taxes are permissible under section 33 of this Act, continue to be levied and collected, after the constitution of a Panchayat Samiti for any area of the said District Board, by such Panchayat Samiti unless it decides otherwise by resolution.

(5) For the sake of facilitating the application of the provisions of the Act or law referred to in sub-section (1) to the officer or authority to whom the functions of the District Board, which has been abolished, may be transferred, the State Government may, by notification in the Official Gazette, make such adaptation of the said provisions of the said Act or law and the rules and byelaws made thereunder, whether by way of repealing, amending or suspending any such provision, as may be necessary or expedient.

¹[70A. *Procedure upon declaration of co-options as invalid.*—Whenever any co-option of members under section 11 or under section 44 shall be declared by a competent authority to be invalid, then, notwithstanding anything contained in any provisions of this Act, such declaration shall be deemed to have caused a vacancy in the Panchayat Samiti or the Zila Parishad, as the case may be, irrespective of whether the co-option of all or a few only of the members thereof have been so declared as invalid, and such vacancy shall be filled up—

(a) in the case of a Panchayat Samiti, in accordance with section 18, and

(b) in the case of a Zila Parishad in accordance with clause (iv) of sub-section (2) of section 46.]

71. *Act of Panchayat Samitis and Zila Parishads not to be invalidated by informality, vacancy etc.*—(1) No act of a Panchayat Samiti or of a standing committee thereof shall be deemed to be invalid by reason only of a defect in the establishment of such Panchayat Samiti or standing committee or on the ground that the Pradhan, Up-Pradhan or any member of such Panchayat Samiti or the Chairman, Vice-Chairman or any member of such standing committee was not entitled to hold or to continue to hold any such office by reason of any disqualification or by reason of any irregularity or illegality in his nomination, co-option or election, as the case may be, or by reason of such act having been done during the period of any vacancy in the office of the Pradhan, Up-Pradhan or member of such panchayat Samiti or the Chairman, Vice-Chairman or member of such standing committee.

(2) The provisions of sub-section (1) shall *mutatis mutandis* apply to the acts of a Zila Parishad or a sub-committee thereof.

¹[71A. *Disputes as to co-option, etc.*—²(1) The provisions of section 13 shall *mutatis mutandis* apply to the co-option of members of Panchayat Samiti under section 11 or section 18, to the election or co-option of a member or Chairman of a standing committee of a Panchayat Samiti under section 20 and to the co-option of members of Zila Parishad under section 44 of clause (iv) of sub-section (2) of section 46.]

³[Provided that such co-option or election may be called in question by means of a petition also by any candidate therefor or thereat and every such petition pending before the Judge on the 31st day on August, 1961 shall be dealt with and disposed of accordingly]

⁴[(2) If before the 31st day of August, 1961 any petition presented by any such candidate, as is referred to in the proviso to sub-section (1), shall have been dismissed on the ground that he did not happen to be a member of the Panchayat Samiti or the Zila Parishad, as the case may be, such dismissal shall be liable to be set aside on the application of the original petitioner for review presented to the Judge within a period of forty days from the said day.]

72. *Oath of allegiance to be taken by the members.*—(1) Every member of a Panchayat Samiti and a Zila Parishad shall, before taking his seat, make at a meeting of the Panchayat Samiti or the Zila Parishad, an oath or affirma-

1. Inserted retrospectively by section 31—of Raj. Act No. 11 of 1961.

2. Re-numbered retrospectively by section 2 of Rajasthan Act No. 27 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 21-10-61.

3. Added—*ibid.*

4. Inserted—*ibid.*

tion of his allegiance to the Constitution of India in the following form, namely:—

¹[I,....., having become a member of the Panchayat Samiti Zila Parishad,..... swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.]

(2) Any member who fails to make, within three months of the date on which his term of office commences or at one of the first three meetings held after the said date, whichever is later, the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

(3) No member shall take his seat at a meeting of the Panchayat Samiti or the Zila Parishad or do any act as such member unless he has made the oath or affirmation as laid down in this section.

(4) The oath or affirmation referred to in sub-section (1) shall be taken at the meetings referred to in sections 11 and 12 or in sections 44 and 55, before the officer presiding thereat and if any member does not so take the oath or affirmation he may do so subsequently within the time specified in sub-section (2)—

(a) before the Pradhan if he is a member of the Panchayat Samiti, and

(b) before the Pramukh if he is a member of the Zila Parishad:

¹[Provided that if it is made to appear to the State Government that the Pradhan or the Pramukh, as the case may be, does not administer the oath or affirmation to any member as provided in this sub-section the State Government may direct that such member shall take the oath or affirmation before the Collector.]

73: *Members and Officers to be public servants.*—The members, officers and servants of a Panchayat Samiti and a Zila Parishad and a standing committee or sub-committee thereof shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

1. Subs. by sec. 26 of Raj. Act No. 32 of 1964, pub. in Raj Gaz., Part IV-A, Extra. dated 3-12-64.

2. Added retrospectively by section 31 of Rajasthan Act 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A-dated 5-4-1961.

(2) The Service may be divided into different categories, each category being divided into different grades and shall consist of—

- (i) village level workers,
- (ii) Gram Sevikas,
- (iii) primary school teachers,
- (iv) ministerial establishment * [except accounts clerks],
- (v) fieldmen
- (vi) stockmen, and
- (vii) vaccinators

(3) The State Government may encadre in the Service any other category or grade of officers and employees of Panchayat Samitis and Zila Parishads not included in Class IV services.

(4) The State Government may prescribe the duties, functions and powers of each grade and each category of officers and employees encadred in the Service.

(5) Except for first appointments to posts in the Service referred to in sub-section (5) of section 31, all appointments to posts in the Service shall be made in accordance with the provisions of sections 31 and 60—

- (a) by direct recruitment, or
- (b) by promotion, or
- (c) by transfer.

(6) Appointments by direct recruitment shall be made by a Panchayat Samiti or a Zila Parishad, as the case may be, in accordance with rules made in that behalf by the State Government, from out of the persons selected for posts of each grade and each category in the Service by a Selection Commission consisting of the following three members, namely:—

- (i) two persons possessing the prescribed qualifications, of whom at least one shall be an officer of Government, whether retired or in active Government service, appointed by the State Government on prescribed

tion terms and conditions of service ¹[for period which shall not exceed three
 nar years]. and

the (ii) the Pramukh of the Zila Parishad of the district for which selection
 is made:

est ²[Provided that such selections for a district, if made by one of the
 wi two members referred to in clause (i) and the Pramukh of the district
 sitting together, shall be deemed to have been made by the Selection
 Commission.]

af (7) One of the members mentioned in clause (i) of sub-section (6) shall be
 su nominated by the State Government to be the Chairman of the Selection
 he Commission.

or (8) The Selection Commission shall select persons for posts in the Service
 o for each district, in accordance with rules made in this behalf by the State
 Government,

ti Provided that in case no such selection has been made in time or no per-
 ti son so selected is available at any time, appointment of persons not so selected to
 a posts encadred in the Service may be made by the appointing authority in the
 perscribed manner temporarily for a period not exceeding six nonths:

(Provided further that the period of any such temporary appointment may
 be extended in the circumstances specified in the first proviso only in consulta-
 tion with the District Establishment Committee constituted under section 88.

I (9) Appointments by promotion or transfer of incumbents holding posts
 encadred in the Service shall be governed by rules made in this behalf and may
 be ordered by the Panchayat Samiti or the Zila Parishad, as the case may be,
 from amongst persons entered in district-wise lists prepared in the prescribed
 manner—

(a) in the case of promotions or transfers within the same district by the
 District Establishment Committee constituted under section 88, and

(b) in the case of other transfers, by the Selection Commission consti-
 tuted under sub-section (6),

— on the recommendation of the Panchayat Samiti or the Zila Parishad under
 whose administrative control they are for the time being and after consulting the

1. Substituted retrospectively from 9-11-60 by Rajasthan Act No 11 of 1961, published in
 Rajasthan Gazette Extraordinary, Part IV-A, dated 5-4-61.

Panchayat Samiti or the Zila Parishad, as the case may be, under whose administrative control they are proposed to be transferred.

(10) Persons holding posts encadred in the Service shall also be eligible for appointment or promotion to posts in a State Service or under the State Government in accordance with rules made in that behalf by the State Government and subject to terms and conditions laid down in such rules, and the persons so appointed or promoted shall count the period of their holding post in the Service constituted under this section for purposes of seniority and pension.

(11) Persons holding appointment in a State Service shall also be eligible for appointment by transfer to a post encadred in the Service constituted under this section in accordance with rules made in this behalf by the State Government and on terms and conditions laid down in those rules.

87. *Pension and provident fund.*—(1) Every person holding a post encadred in the Service constituted under section 86 shall be entitled to the payment of a pension by the State Government out of the Consolidated Fund of the State in accordance with rules made by it in that behalf, and every Panchayat Samiti and Zila Parishad shall make and pay such contributions to the State Government on that account as may be specified in those rules :

Provided that, if any such person deemed to be appointed to the Service under clause (a) of sub-section (5) of section 31 [or under section 60] is not entitled to the benefit of a pension under the Rajasthan Service Rules but has, since before the date of the constitution of the Panchayat Samiti [or Zila Parishad as the case may be] under which he holds his appointment, been a regular subscriber to a contributory provident fund in lieu of the benefit of pension, he shall not be entitled to a pension and shall continue to subscribe to that contributory fund in accordance with the rules applicable thereto and the contribution of a Panchayat Samiti or Zila Parishad on that account shall be determined by rules.

(2) For all persons holding posts in Class IV service in a district, whether under a Panchayat Samiti or under the Zila Parishad, a contributory provident fund shall be established by each Zila Parishad in accordance with rules made in that behalf by the State Government and the provisions of the Provident Funds Act, 1925 (Central Act 19 of 1925) shall apply to each such fund.

²[Provided that all persons deemed to be appointed under clause (i) of sub-section (5) of section 31 or under section 60 to posts in Class IV services shall,

1. Inserted retrospectively by section 31 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary. Part IV-A, dated 5-4-61.

2. Added—ibid.

if previously, to the constitution of the Panchayat Samiti or Zila Parishad, as the case may be, they were entitled to receive pension or were regular subscribers to a contributory fund in lieu of the benefit of pension, be entitled to the payment out of the Consolidated Fund of the State, of the pension, or, as the case may be, to continue to subscribe to the contributory fund, in accordance with rules made by the State Government under sub-section (1) or the rules applicable to that contributory fund and the contribution to be paid by a Panchayat Samiti or Zila Parishad on account of such pension or contributory fund shall be determined by rules].

88. *District Establishment Committees and their functions.*—(1) For each district the Selection Commission shall form a District Establishment Committee consisting of—

(a) one of its permanent members appointed under clause (i) of sub-section (6) of section 86, as the Chairman of committee, and

(b) the Pramukh and Collector of the district, as its members.

(2) A committee formed under sub-section (1) shall in accordance with rules made in that behalf—

(a) regulate the mode of and recommend persons for temporary appointments under the second proviso to sub-section (8) of section 86 and appointments by promotion or transfer under sub-section (9) of that section, and

(b) advise Panchayat Samitis and Zila Parishads on all disciplinary matters affecting their officers and employees, other than officers referred to in sections 26 and 55, which may arise under section 89.

89. *Disciplinary proceedings against, and punishments inflicted on staff of Panchayat Samitis and Zila Parishads.*—(1) The conduct of disciplinary proceedings that may be started against, and the punishments that may be inflicted in such proceedings on, all officers and servants of Panchayat Samitis and Zila Parishads, other than the officers referred to in sections 26 and 55, shall be governed and regulated by rules made by the State Government in this behalf,

(2) Subject to such rules—

(a) all or any of the prescribed punishments may be inflicted on all persons holding posts in class IV services—

(i) by the Vikas Adhikari of a Panchayat Samiti, if such persons are servants of that Panchayat Samiti, and

74. *Administration Report*.—(1) Every Panchayat Samiti shall furnish to the Zila Parishad, and every Zila Parishad shall furnish to the State Government, a report on its administration for each year as soon as may be after the close of such year, in such form and with such details as may be prescribed.

(2) The Panchayat Samiti shall, while furnishing the report to the Zila Parishad as aforesaid, also send a copy thereof to the State Government.

(3) The Zila Parishad shall, consider the administration report of each Panchayat Samiti and forward the same with its remarks to the State Government with a copy endorsed to the '[collector.]

(4) The report of the Panchayat Samiti shall be prepared by the Vikas Adhikari and that of the Zila Parishad by its Secretary and the Panchayat Samiti or the Zila Parishad shall consider and forward it to the Zila Parishad or the State Government, as the case may be, with its resolution thereon.

75. *Suits etc against Panchayat Samitis and Zila Parishads*.—(1) No suit or other civil proceeding against a Panchayat Samiti or a Zila Parishad or against any member, officer or servant thereof or against any person acting under the direction of the Panchayat Samiti or the Zila Parishad or any member, officer or servant thereof for anything done or purporting to be done under this Act in its or his official capacity—

(a) shall be instituted until the expiration of two months after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the nature of the relief which he claims, has been, in the case of a Panchayat Samiti or a Zila Parishad, delivered or left at its office and, in the case of a member, officer, servant or person as aforesaid, delivered to him or left at the office or at his usual place of abode, and the plaint shall in each such case contain a statement that such notice has been so delivered or left, or

(b) shall be instuted, unless it is a suit for the recovery of immovable property or for a declaration of title thereto, otherwise than within six months next after the accrual of the alleged cause of action.

(2) The notice referred to in sub-section (1), when it is intended for a Panchayat Samiti or a Zila Parishad, shall be addressed to the Vikas Adhikari or the Secretary respectively.

76. *Protection of acts done in good faith*.—No suit, prosecution or other legal proceeding shall lie or be instituted against any person for anything which is, in good faith, done or intended to be done under this Act or under the rules made thereunder.

77. *Power to invest surplus funds.*—It shall be lawful for a Panchayat Samiti or a Zila Parishad, with the sanction of the State Government, to invest any surplus funds in its hands, which may not be required for current charges, in public securities in the name of the Panchayat Samiti or the Zila Parishad, as the case may be.

78. *Power of Government to amend Schedule.*—The State Government may, by notification in the Official Gazette, amend the Schedule.

79. *Power to make rules.*—(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall, as soon as may be after they are made, be laid for not less than fourteen days before the House of the State Legislature and shall be subject to such notifications, whether by way of repeal or amendment, as the said House may make during the session in which they are so laid.

80. *Power of Panchayat Samitis and Zila Parishads to make bye-laws.*—(1) A Panchayat Samiti or Zila Parishad may from time to time make bye-laws, not inconsistent with the provisions of this Act or the rules made there-under, for carrying out the purposes for which it is constituted.

(2) Every Panchayat Samiti or Zila Parishad shall, before making any bye-laws under this section, publish in such manner as shall in its opinion be sufficient for the information of the persons likely to be affected thereby a draft of the proposed bye-laws, together with a notice specifying a date on or after which the draft will be taken into consideration and shall receive and consider any objection or suggestion with respect to the draft bye-laws which may be made in writing by any person before the date so specified.

(3) No bye-law made by a Panchayat Samiti or a Zila Parishad shall take effect unless it is sanctioned by the State Government.

(4) When any bye-law made by a Panchayat Samiti or a Zila Parishad is submitted to the State Government for sanction, a copy of the notice published under sub-section (2) and of every objection or suggestion made thereto shall be submitted for the information of the State Government alongwith the said bye-law.

81. *Infringement of rules and bye-laws.*—In making any rules under section 79 or any bye-law under section 80, the State Government or the Panchayat Samiti or the Zila Parishad, as the case may be, may direct that a breach of any of them shall be punishable with fine which may extend to one hundred rupees

and, when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

82. *Taxes and fees recoverable as arrears of land revenue.*—All arrears of cesses, taxes, duties and fees leviable by a Panchayat Samiti under this Act or of loans granted by it shall be recoverable as arrears of land revenue.

83. *Recovery of un-utilised subsidies and grants.*—Whenever, in exercise of any power conferred on it by this Act, a Panchayat Samiti shall have sanctioned to any institution or individual a subsidy or grant of money for any specified purpose and the whole or any portion of such subsidy or grant shall be found not to have been utilised for that purpose in accordance with the conditions subject to which the subsidy or grant was sanctioned, the same or the unutilised portion thereof shall be recoverable by the Panchayat Samiti as an arrear of land revenue.

84. *Delegation of powers and power to transfer institutions and works.*—(1) The State Government may by notification delegate all or any of its powers under this Act, except those conferred upon it by this section and by sections 67, 78, 79 and 85, to any person or authority subordinate to it and may, in like manner, withdraw any powers so delegated. The exercise of any powers delegated under this sub-section shall be subject to such restrictions, limitations and conditions and to such control and revision by such authority as may be specified in the notification.

(2) The State Government may likewise assign to any of the officers mentioned in sections 26 and 55 and to the other staff of Panchayat Samitis and Zila Parishads such other functions, not covered by any provision of this Act, as the State Government may consider necessary and proper.

(3) A Panchayat Samiti or a Zila Parishad or any person exercising or performing any powers or functions by or under the provisions of this Act may delegate its or his powers or functions in writing to any person or authority subject to such restrictions, limitations and conditions as may be prescribed.

(4) The State Government may transfer any institution or work under its management or control to a Panchayat Samiti, and the Panchayat Samiti may transfer any institution or work under its management or control to any Panchayat subject to such conditions, limitations and restrictions as may be specified by the State Government or the Panchayat Samiti, as the case may be.

85. *Power of revision and review by Government.*—(1) The State Government may, either of its own motion or on an application of any person in

call for and examine the record of a Panchayat Samiti or a Zila Parishad or of a standing committee or sub-committee thereof in respect of any proceedings to satisfy itself as to the correctness, legality or propriety of any decision or order passed therein or as to the regularity of such proceedings and, if, in any case, it appears to the State Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly:

Provided that the State Government shall not pass any order prejudicial to any party unless such party has had a reasonable opportunity of being heard in the matter.

(2) The State Government may stay the execution of any such decision or order prejudicial to any party, pending the exercise of its powers under sub-section (1) in respect thereof.

(3) The State Government may of its own motion at any time or on an application received from any person interested, within ninety days of the passing of an order under sub-section (1), review any such order if it was passed by it under any mistake, whether of fact or of law, or in ignorance of any material fact. The provisions contained in the proviso to sub-section (1) and in sub-section (2) shall apply to a proceeding under this sub-section.

[(3 a)] The State Government may of its own motion at any time or on an application received from any person affected within ninety days of the passing of an order under section 40, sub-section (1) or sub-section (4), or of the making of a declaration under sub-section (2) of section 16, review any such order or declaration, as the case may be, if it was passed or made by it under any mistake, whether of fact or of law, or in ignorance of any material fact and in the case of an order for failure to attend the Adhayan Kendra to pursue the prescribed course of study despite being nominated thrice for the purpose, if there was sufficient cause for such failure.]

(4) Every application preferred under sub-section (1) or sub-section (3) ²[or sub section (3 a)] of this section shall bear a court-fee of five rupees.

86. *Constitution of Rajasthan Panchayat Samiti and Zila Parishad Service.*

(1) There shall be constituted for the whole of the State a service designated as the Rajasthan Panchayat Samiti and Zila Parishad Service and hereafter in this section referred to as the Service and recruitment thereto shall be made Districtwise.

1. Inserted retrospectively by section 2(a) of Rajasthan Act No. 19 of 1964, pub. in Rajasthan Gazette, Part IV-A, Extr., date 17-9-64.

2. Ins., by Sec. 2(b) *ibid*.

(ii) by the Secretary of a Zila Parishad, if they are servants of that Zila Parishad; and

(b) the punishment of censure may be inflicted on all persons holding appointments to posts encadred in the Service constituted under section 86—

(i) by the Vikas Adhikari of a Panchayat Samiti, if such persons hold their appointments under that Panchayat Samiti, and

(ii) by the Secretary of the Zila Parishad, if they hold their appointments under that Zila Parishad.

(3) The punishment of withholding only one increment may be inflicted on a member of the Service by a standing committee of the Panchayat Samiti or by the Zila Parishad according as such member holds his appointment under the Panchayat Samiti or the Zila Parishad.

(4) All other prescribed punishments may be inflicted by a standing committee of the Panchayat Samiti or by the Zila Parishad as the case may be, subject to the prior approval of the District Establishment Committee.

(5) From an order passed under sub-section (2), an appeal shall lie—

(i) to the Panchayat Samiti, if such order has been passed by its Vikas Adhikari, and

(ii) to the Zila Parishad, if it has been passed by its Secretary, and shall be heard by the standing Committee of the Panchayat Samiti constituted for the subject of administration or, as the case may be, by a sub-committee of the Zila Parishad.

(6) An appeal shall lie—

(a) from an order passed under sub-section (3), to the District Establishment Committee formed under section 88, and

(b) from an order passed under sub-section (4), to the State Government, and shall be disposed of in the prescribed manner.

(7) Appeals under sub-section (5) or sub-section (6) may be presented within thirty days from the date of the order appealed from, exclusive of the time requisite for obtaining a copy thereof.

90. *Disputes.*—(1) If any dispute arises between two Panchayat Samitis or between a Panchayat Samiti and a Municipal Board or between two Zila Parishads

or between a Zila Parishad and a Municipal Board, it shall be referred to the State Government.

(2) The decision of the State Government, on such dispute, shall be final and shall not be questioned in any court of law.

91. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the State Government, as occasion may require, may by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

92. *Saving.*—Notwithstanding anything contained in any provision of this Act, a Panchayat Samiti or a Zila Parishad will have no jurisdiction over such area of the block or district for which respectively it is constituted as lies within the limits of a municipality except for such purposes as may be prescribed.

[92-A. *Removal of doubts.*—In order to remove all doubts it is hereby declared that, notwithstanding any provision contained in this Act,—

shads under this Act by the 2nd day of October, 1959, the State Government may, by order published in the Official Gazette—

(a) direct that this Act shall have effect subject to such adaptations, alterations and modifications as may be specified in the order, and

(b) make such other temporary provisions as may be so specified.

THE SCHEDULE

[See Section 23 (2)]

Functions of Panchayat Samiti

1. *Community Development:*

- (i) Organisation of village institutions for securing increased employment production and amenities.
- (ii) Securing self-help and self-reliance in the village community based on the principles of mutual co-operation.
- (iii) Harnessing the unutilised time and energy in the countryside for the benefit of the community.

2. *Agriculture :*

- (i) Formulation of plans for increased agricultural production—for family, village and block—and their execution.
- (ii) Utilisation of resources in land and water and extension of the improved techniques of farming based on latest research.
- (iii) Construction and maintenance of irrigation works costing not more than Rs. 25,000/-.
- (iv) Provision of assistance for construction of Irrigation Wells, Bunds, Ani-cuts and Med Bundh.
- (v) Land reclamation and soil-conservation on agricultural lands.
- (vi) Maintenance of seed multiplication farms—assistance to registered seed growers and distribution of seed.
- (vii) Fruit and vegetable development.

- (viii) Popularisation of manures and fertilisers and their distribution.
- (ix) Development of local manurial resources.
- (x) Promotion of the use, purchase and manufacture of improved agricultural implements and their distribution.
- (xi) Plant protection.
- (xii) Development of cash crops in accordance with the policy enunciated in the State Plan.
- (xiii) Credit and other facilities for development of irrigation and agriculture.

3. *Animal Husbandary :*

- (i) Upgrading local stock by introducing pedigree breeding bulls, castrating scrub bulls and by establishment and maintenance of artificial insemination centres.
- (ii) Introduction of improved breeds of cattle, sheep, pigs, poultry and camels, giving assistance therefor and running of small stock breeding farms.
- (iii) Control of contagious diseases.
- (iv) Introduction of improved fodders and feeds.
- (v) Establishment and maintenance of first aid centres and minor veterinary dispensaries.
- (vi) Dairying and milk supply.
- (vii) Wool grading.
- (viii) Tackling the problem of scrub cattle.

4. *Health and Rural Sanitation:*

- (i) Maintenance and expansion of health services including vaccination and control of epidemics.
- (ii) Provision of protected drinking water facilities.
- (iii) Family planning.
- (iv) Inspection of Aushdhalayas, Dawakhanas, Dispensaries, Maternity Centres and Primary Health centres.

- (v) Carrying out environmental sanitation and health campaigns and educating the public in (a) nutrition, (b) maternity and child health and (c) communicable diseases.

5. *Education:*

- (i) Primary schools including schools run for scheduled castes and scheduled tribes.
- (ii) Conversion of Primary Schools into Basic Pattern,
- (iii) Scholarships and stipends up to Middle standards including scholarships and stipends to members of scheduled castes scheduled tribes and other backward classes.

6. *Social Education:*

- (i) Establishment of Information, Community and Recreation Centres,
- (ii) Establishment of Youth Organisations.
- (iii) Establishment of libraries.
- (iv) Work amongst women and children with special reference to the training and utilisation of services of Gram-Kakis and Gram-Sathins.
- (v) Adult Education.

7. *Communications:*

Construction and maintenance of Inter-Panchayat roads and culverts on such roads.

8. *Co-operation:*

- (i) Promotion of co-operation by helping in the establishment and strengthening of service-co-operatives, industrial, irrigation, farming and other co-operative societies.
- (ii) Participation in and assistance to service co-operatives.

9. *Cottage Industries:*

- (i) Development of Cottage and Small Scale Industries in order to provide better employment opportunities and to promote village self-sufficiency.

- (ii) survey of industrial and employment potential.
- (iii) Establishment and maintenance of production-cum-training centre
- (iv) Improvement of the skills of artisans and craftsman.
- (v) Popularisation of improved implements.

10. *Work amongst backward classes :*

- (i) Management of hostels subsidised by Government for the benefit of Scheduled Castes, Scheduled Tribes and other Backward Classes.
- (ii) Strengthening of voluntary social welfare organisations and co-ordinating their activities,
- (iii) Propagation of temperance and prohibition and social reforms.

11. *Emergency Relief:*

Provision of emergency relief in case of fire, flood, epidemics and other widespread calamities.

12. *Collection of Statistics:*

Collection and compilation of such statistics as may be found necessary either by the Panchayat Samiti, the Zila Parishad or the State Government

13. *Trusts:*

Management of trusts for furtherance of any purpose to which the funds of the Panchayat Samitis may be applied.

14. *Forests:*

- (i) Village Forests.
- (ii) Rotational grazing.

15. *Rural Housing.*

16. *Publicity:*

- (i) Community Listening Scheme.
- (ii) Exhibitions.

(iii) Publications.

17. *Miscellaneous :*

- (i) Supervision of and guidance to the Panchayats in all their activities and formulation of village and Panchayat plans.
- (ii) Regulation of offensive, dangerous or obnoxious trades, calling and practices.
- (iii) Reclamation of unhealthy localities.
- (iv) Establishment, management, maintenance and inspection of markets and other public institutions e. g. public parks, gardens, orchards, and farms etc.
- (v) Establishment and management of staging houses.
- (vi) Inspection of Poor Houses, Asylums, Orphanages, Veterinary Hospitals and other institutions located in the block.
- (vii) Encouragement of thrift through small savings and insurance.
- (viii) Promotion of folk art and culture.
- (x) Organisation and management of Panchayat Samiti fairs.

Section III

The Rajasthan Panchayat & Nyaya
Election Rules, 1960

The Rajasthan Panchayat & Nyaya Panchayat Election Rules, 1960

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The Rajasthan Panchayat And Nyaya Panchayat Election Rules, 1960

[First published in the Rajasthan Rajpatra, Extraordinary,
Part IV-C, dated 5-10-60].

PANCHAYAT AND DEVELOPMENT DEPARTMENT (PANCHAYAT WING)

NOTIFICATION

Jaipur, October 5, 1960.

No. F. 4 (LJ) 25/(14).—In exercise of the powers conferred by section 89 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953) and of all other powers enabling it in this behalf, the Government of Rajasthan is pleased to make the following rules, namely:—

THE RAJASTHAN PANCHAYAT AND NYAYA PANCHAYAT ELECTION RULES, 1960.

CHAPTER I.

Preliminary.

1. Short title and commencement.—(1) These Rules may be called the Rajasthan Panchayat and Nyaya Panchayat Election Rules, 1960.

(2) These Rules shall come into force at once.

Comments.

1. *Commencement of the Rules.*

These rules came into force on the 5th October, 1960 when they were first published in the Official Gazette.

2. *Amendments.*—These rules have been amended thirteen times since their first publication in the Official Gazette, once by the Rajasthan Panchayat (Third Amendment) Ordinance, 1960 and twelve times by the various other notifications issued by the Government from time to time. The following Statement will show the amendments made from time to time:—

Amending measures.	Date of publication in the Official Gazette.
1. Rajasthan Panchayat (Third Amendment) Ordinance, 1960.	Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 15th December, 1960.
2. Panchayat & Development Department Notification No. F. 4(LJ) 25(14) dated 11th October, 1960.	Published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 12th October, 1960.
3. Notification No. F.4(LJ)(25) (14)/66004 dated 18th October, 1960.	Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 18th October, 1960.
. Notification No. F.4(LJ) 25 (14) dated 31st October, 1960.	Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 31st October, 1960.
. Notification No. F.4(LJ)/25/ (14)/70380 dated 23rd November, 1960.	Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 23rd November, 1960.
. Notification No. F.4(LJ) 25/ (14) dated 24th November, 1960.	Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 24th November, 1960.

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| 7. Notification No. F. 4(LJ)25 (14) dated 28th November, 1960. | Published in the Rajasthan Gazette, Extraordinary, Part, IV-C, dated 28th November, 1960. |
| 8. Notification No. F. 4 (LJ) Pts/60-A dated 23rd December, 1960. | Published in the Rajasthan Gazette, Part IV-C, Extraordinary, dated 23rd December 1960. |
| 9. Notification No. F. 4(LJ) 25 (14)dated 2nd January, 1961. | Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 2nd January, 1961. |
| 10. Notification No. F.4(LJ)(25) (14) dated 4th January, 1961. | Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 5th January, 1961. |
| 11. Notification No. F. 4(LJ)25/ 14/41670 dated 26th July, 1961. | Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 31st August, 1961. |
| 12. Notification No. F. 4(LJ) 2 (8)/ 62/34769 dated 7th August, 1962. | Published in the Rajasthan Gazette, Extraordinary, Part IV-C, dated 7th August, 1962. |
| 13. Election Department Notification No. F. 1(1) (4) V (Elec.)/63 dated 31st August, 1963. | Published in the Rajasthan Gazette, Part IV-C, dated 12th September, 1963. |

3. Observance of the Rules-Imperative:—

In *Brijlal Vs. the State of Rajasthan*¹ it was observed

1. 1960 RLW 427.

by his Lordship the chief justice of the Rajasthan High Court that it was very necessary that these wholesome rules for conducting Elections should be strictly observed and the officer-in-charge of Elections must not ignore or violate the provisions of these rules. The election of a returned candidate is liable to be set aside if the rules are contravened by the candidates, electors or the officials conducting the elections.

2. Interpretation.—(1) In these Rules, unless the subject or context otherwise requires,—

(i) “Act” means the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953);

(ii) “form” means a form appended to these Rules;

(iii) “Returning Officer” means the officer appointed as such under these Rules; and

(iv) “Section” means a section of the Act.

(2) All words and expressions used but not defined in these Rules have the same meanings as are respectively assigned to them in the Act.

Comments

The following definitions given in section 2 of the Rajasthan Panchayat Act, 1953 and the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 may be usefully reproduced here as these expressions are frequently used in these rules:—

“(1) “Panch” means a member of a Panchayat [other than a Sarpanch;]

(2) “Panchayat Circle” means the local area over which a Panchayat exercises jurisdiction;

(3) “Panchayat” means a Panchayat established under this Act;

(4) "Population" used with reference to a panchayat circle or a ward thereof, means the population of such circle or ward according to the returns of the latest Government census for the time being;

(5) "Sarpanch" means the Sarpanch of a Panchayat elected under sub-section (1) of section 13;

(6) "Scheduled Castes" means the castes, races, tribes or communities for the time being specified in Part XIV of the Schedule to the Constitution (Scheduled Castes) Order, 1950 and in Part XII of the Schedule to the Constitution (Scheduled Tribes) Order, 1950;

(7) "Officer-in-charge of Panchayats" means the person or officer appointed by the State Government under section 74 to be the Officer-in-charge of Panchayats and includes an officer subordinate to him appointed under that section;

(8) "Ward" means any of the wards in which a Panchayat circle is divided under Section 5; and

(9) "Krishi Nipun" means a person declared as such for every block by the Zila Parishad in accordance with the rules made in that behalf."

CHAPTER II.

ELECTIONS AND CO-OPTIONS

(1) *Formation of wards.*

3. Matters to be taken into consideration in formation of Wards.—(1) A Panchayat Circle shall be divided into wards equal to the number of Panchas fixed therefor under section 4.

(2) The population of each ward of a Panchayat Circle shall, as far as may be, be in the same proportion as the number of panchas fixed under section 4 bear to the total population of the Panchayat Circle.

(3) In dividing a panchayat circle into wards under section 5, the Collector shall form each ward so as to conform¹ [as far as possible,] to the order in which the houses of the electors of the panchayat circle appear in the electoral roll of the Rajasthan Legislative Assembly relating thereto.

(4) Each ward shall be assigned a separate serial number.

Comments

Division of Panchayat circle into wards.—

In dividing a Panchayat circle into wards, the Collector shall form each ward so as to conform, as far as possible, to the order in which the houses of the electors of the Panchayat circle appear in the electoral roll of the Rajasthan Legislative Assembly of that area. Under Section 4 the number of Panchas for each panchayat circle is to be determined by the State Government. After this is done, the Collector shall divide the Panchayat circle into as many wards as may be convenient and fix the number of Panchas to be elected from each ward.... The population of each ward shall be roughly the same, but for this purpose it is not desirable to put the electors living in the same house in different wards or the residents of one village into the ward of another village, so as to equally distribute the voters in different wards. Small villages will of course have to be put in one ward.

*Population meaning of:—*The word "Population" used in this and other rules means the population of the Panchayat circle or the ward, as the case may be, according to the returns of the latest Government census for the time being.

4. Number of panchas for multi-member wards.—In fixing the number of panchas for a multi-member ward, if any, the Collector shall see that such number bears, in relation to

1. Inserted by notification No. F. 4 (LJ) 25 (14), 566004 dated 18-10-60 published in Rajasthan Gazette, Ex. ordy, Part IV-C, dated 18-10-60.

the population of the multi-member ward, the same proportion as the total number of panchas fixed under section 4 for a panchayat bears to the total population of the panchayat circle.

Comments

The formation of multi-member wards should be avoided as far as possible as they are likely to cause administrative inconvenience at the time of the elections.

However, in the case of bigger wards, the number of Panchas may be more than one. In such cases while fixing the number of panchas it should be seen that the number bears, in relation to the population of the ward, the same proportion as the total number of panchas fixed for the Panchayat circle to the total population of the Panchayat circle.

5. Publication of Wards.—The wards formed under rule 3 and the number of panchas, if any, fixed for multi-member wards under rule 4, shall be notified by affixing a statement thereof on the notice board of the Collector's office as well as on the Panchayat office or in any conspicuous place at the headquarters of the Panchayat, where no Panchayat office is established.

Comments

1. Publication of the wards.—

The publication of wards and the number of panchas under rule 4 shall be made by affixing a statement thereof on the notice board of the Collector's Office as well as of the Panchayat Office. The provision is mandatory and any omission to publish the notice on both these places may give rise to an election petition at a later date. It is not necessary that the notice should be published in the Official Gazette.

The wards will be notified by affixing a statement thereof in the office of the Collector and that of the ~~any~~ Panchayat. The statement may be in the following

Name of the Village.	Ward No.	Boundaries of the Ward		Name of the Panchayat circle.
		List of houses	Description as per site.	
1	2	3	4	5

2. Interpretation:—

According to Section 2 (2) of the Raj. Panchayat (Amendment) Act, 1961 (Act No. 10 of 1961) the expression “Collector” used in rule 3, 4 and 5 of these rules shall include any other subordinate gazetted officer, appointed by the Collector in this behalf. Thus all powers of the Collector under the aforesaid rules can be delegated to any other subordinate gazetted officer appointed by him in this behalf.

(2) Voters Lists.

6. Preparation of Voters Lists.—The Collector shall cause to be prepared in Hindi written in Devnagri script, a list of the voters of each ward formed under section 5 and rule 5, in accordance with the provisions of section 10.

Comments

According to Section 10 every person who is qualified to be registered in the Rajasthan State Legislative Assembly Electoral Roll of the area comprised in a Panchayat Circle or whose name is entered in such roll shall be entitled to be registered in the list of voters of such Panchayat circle or the ward, as the case may be. Such list shall correspond to the latest electoral roll of the Rajasthan Legislative Assembly relating to the area comprised therein.

According to the provisions of the Representative of the People Act, 1950 (Act No. 43 of 1950), the following qualifications have been prescribed for the voters in the assembly election:—

A person to be entitled to have his name entered in the assembly electoral roll must be—

- (i) a citizen of India,
- (ii) of 21 years of age on the qualifying date, and
- (iii) be ordinarily resident in the constituency.

He must not be—

- (a) of unsound mind as declared by a competent court.
- (b) disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.
- (c) registered in any other constituency or in the same constituency relating to election of members to the State legislature.

7. Publication of Lists.—Each voters list so prepared shall be published by being exhibited at the office of the panchayat, if any, on the notice board of the Tehsil within which the panchayat circle lies and at one or two conspicuous places within the ward to which the list pertains, alongwith a notice—

(a) inviting objections thereto and claims in respect thereof to be presented in writing within a fortnight from the date of notice to the Collector, and

(b) fixing a date and time for the hearing of such objections and claims, if any, by him.

(2) From the date of the notice referred to in sub-rule (I), each such list shall also be open to inspection free of charge by the public for a fortnight during office hours at the offices of the Panchayat, if any, and of the Collector.

Comments

Inviting Objections—Period of fortnight:—

Along with the lists to be published under this rule, a notification shall be published inviting objections thereto.

counting 15 days, the date on which the lists are published shall not be included. Objections could be filed on the 15th day upto 3 P. M., from the day following that on which the lists are published.

8. Claims and objections.—(1) Any person, whose name is not entered in the Voters list or is entered in an incorrect place or manner or with incorrect particulars or any person whose name is entered in the list and who objects to the inclusion of his own name or the name of any person in that list, may prefer a claim or objection by delivering to the Collector an application in writing not later than 3 O'clock in the afternoon of the 15th day from the date of the notice under rule 7, and no claim or objection received after that time shall be entertained.

(2) A claim or objection shall be accompanied by any documents on which the claimant or objector relies.

Comments

Any person can inspect the voters' list without payment of any fees within 15 days of its publication. Claims and objection in respect thereof can be filed on any of the following rounds:—

- (i) that the name of the claimant is not entered in the voter's list.
- (ii) that the name of the claimant or another person as entered contains mistakes in respect of name, sex, age, fathers' name and residence etc.
- (iii) that the name of the applicant or another person has been wrongly entered in the list.

The claims and objections can be filed in any form and may be accompanied by any document or affidavit to substantiate the same. They must, however, be in writing and must be presented within the time prescribed for the receipt of the same.

9. *Disposal of claims and objections.*—(1) The Collector shall, after holding such summary inquiry into the claims or objections as he thinks fit, record his decision in writing :

¹ [Provided that before deleting the name of a voter, he shall be given an opportunity of being heard.]

(2) No person shall be represented by any legal practitioner in any proceeding under this rule.

² [Each voters list shall be amended in accordance with such decision.]

(4) The voters list as so amended shall be final and a certified copy of each of the same duly signed by the Collector shall be deposited in the office of the Panchayat, if any, and the Collector.

Comments

The collector or any other person appointed by him in this behalf shall hear objections and decide them. No order for the removal of the name of any person shall be passed without giving him an opportunity of being heard. No legal practitioner can appear to represent any one else during the hearing of the claims and objections by the collector.

10. *Inspection and issue of certified copies.*—Every member of the public shall have the right to inspect the voters' list referred to in sub rule (4) of rule 9 on payment of a fee of one rupee and attested copies of the same may be issued to an applicant on payment of the same fees as are prescribed for copies of

² [Assembly Electoral Rolls.]

11. ²[*Duration of list.*—Every list of voters referred to in sub rule (4) of rule 9 shall continue in force until revised in accordance with rule 11 A.]

1. Added by notification No. F. I (i) (i) 1 / Elec. / Dir. / 63 dated 30-10-64 published in Rajasthan Gazette, Part IV C Extraordinary, dated 7-11-64.

2. Substituted by *ibid.*

(5) The voters list altered in accordance with this rule shall be deemed to be the list for the time being in force.

(6) The applications referred to in sub-rules (1) and (2) shall be in Form VII, VIII and IX, as the case may be.]

¹[12A. *Interpretation* —The expression 'Collector' wherever occurring in rules ¹[3 to 12] shall include any subordinate Gazetted Officer of the State Government authorized by the Collector under Section 10.

²[12B. *Appeals* :—

(1) An appeal shall lie from an order passed under rule 9 or 12—

(a) by the subordinate officer referred to in section 10 (1) and rule 12A to the Collector,

(b) by the Collector to the Revenue Appellate authority appointed under section 20A of the Rajasthan Land (Revenue) Act, 1956 (Rajasthan Act 15 of 1956), having jurisdiction, within the period of 15 days from the date of order.

Provided that an appeal shall not lie where a person desiring to appeal has not availed himself of his right to be heard by or to make representation to the Collector or the subordinate officer, as the case may be, on the matter which is the subject of appeal.

(2) such appeal shall be—

(a) in the form of memorandum signed by the applicant :

-
1. Substituted by notification No. F. 4 (LJ) 25/14/ dated 31-10-60 published in Rajasthan Gazette, Part IV-C, dated 31-10-60.
 2. Added by Elec. Deptt. notification dated 30.10.64 published on 7.11.64 in Raj. Gazette.

- (b) accompanied by a copy of the order appealed from and a fee of rupees three shall be paid non-judicial stamps; and
 - (c) presented to the Collector or Revenue Appellate Authority as the case may be or sent by registered post so as to reach him within the specified period.
- (3) the presentation of an appeal under this rule shall not have the effect of staying or postponing any action to be taken by the Collector or subordinate officer under rule 9 or 12 :
- Provided that no injunction or stay order shall be issued in case where the subject of appeal is an order made under rule 9
- (4) decision of the authority to whom appeal has been preferred, shall be final, but in so far as it reverses or modifies the decision of Collector or subordinate officer, shall take effect only from the date of decision in appeal.]

Jazetted Officer of the State Government authorised by the Collector under section 10.]

13. Custody and destruction of papers.—The preliminary voters list published under rule 7, and the claims and objections received under rule 8 along ¹[with the orders thereon of the officer hearing the objections and claims and one of the certified copies of the final voters list] shall be preserved in the record room of the Collector until after the next revision of the voters lists and shall then be destroyed.

(3) *Election of Panchas.*

14. *Notification of election.*—(1) As often as a general election of panchas in a panchayat circle becomes necessary, or required by the provisions of the Act, to be held for the constitution or reconstitution of a Panchayat, the Collector shall by notification,—

(i) call upon all wards in the panchayat circle to elect in the case of single-member wards, one panch each and in the case of a multi-member ward, as many panchas as may have been fixed therefor under section 5, within the time specified in the notification; and

(ii) appoint hereby—

(a) a day on or before
of by which nomination

(b) a day, not later
the date fixed for the
papers and the hour the
scrutiny of such nomination

(c) a day, not later
the day fixed for the scrut

1. Substituted by notification No. F. 4 (1) in Rajasthan Gazette, Part IV-C, dated

on or before which, and the hour thereof by which, nominations may be withdrawn,

(d) a day on which a poll shall, if necessary, be taken, and

(e) the hours within which such poll be taken.

(2) The Collector shall, by the same or a separate notification, appoint a person, by name or by virtue of his office, to act as Returning Officer for each panchayat circle.

Comments

1. *Publication of Notification:—*

The publication of the notification containing election programme is mandatory but it is not necessary that it should be published in the Official Gazette (1962 I.L.R. (12 Raj.) 51-1962 J.R.L. 32). The notification under this rule need not be signed by the Collector himself and even an unsigned notification may be valid under Section 86 of the Act which provides that no notification issued under this Act shall be invalid on account of any defect or omission in its form.

2. *Appointment of Returning Officers:—*

Simultaneously with the issue of the notification pertaining to the election programme, the Collector shall by the same or another notification appoint Returning Officers for each Panchayat circle. This notification need not be published in the Official Gazette and can follow or even precede the notification containing the election programme. There is no particular form prescribed for the appointment of Returning Officers.

3. *Change of Election Programme or of Returning Officer:—*

Normally an officer fixing a date or appointing a person has the implied authority to change the date or appoint any other person in place of one appointed by him. However, the date of election once fixed should not be changed and lightly arbitrarily.

In Sardul Singh and others V. Rajasthan State (Civil Writ No. 151 of 1955) decided on 9th July, 1956 and Bheru Lal V. Jagan Nath (1960 RLW 303) the Rajasthan High Court held that change of the date of election without assigning any reason was illegal although the Chief Panchayat Officer had an implied power to do so under Section 14 of the Rajasthan General Clauses Act, 1955. On the same analogy change of Returning Officer on account of the transfer of one officer or for any other administrative reason is quite valid (Kirori Lal Vs. C. P. O. 1959 R.L.W. 587).

The publication of a notification under this rule is the beginning of the elections. By this notification the collector notifies the programme of elections beginning from the receipt of the nomination papers to the taking of oath by the elected persons.

15. *Duties and powers of Returning Officers.*—(1) In addition to the duties imposed and powers conferred on a Returning Officer by or under these Rules, it shall be his general duty to do all such acts and things as may be necessary for conducting effectively an election under these Rules.

(2) In particular and without prejudice to the generality of the provision contained in sub-rule (1), the Returning Officer shall—

(a) keep order at all the polling stations and polling booths provided under rule 21,

(b) see that the poll, if held, is fairly conducted at each such station,

(c) regulate the number of electors to be admitted at any one time to a polling station, and

(d) exclude therefrom all persons except—

(i) the polling officers,

(ii) the staff appointed under rule 22 to assist them,

(iii) the candidates,

(iv) the police and other public servants on duty, and

(v) such other persons as he may admit for the purpose of identifying electors and for other purposes.

16. *Presentation of nomination papers.*—(1) On or before the day appointed under sub-clause (ii) of sub-rule (1) of rule 14 for the presentation of nomination papers, any person qualified under section 11 for election as a panch and desiring to seek such election, hereafter in this chapter referred to as a candidate, shall deliver to the Returning Officer his nomination paper in Form I duly filled in and signed by the candidate.

(2) Any nomination paper not delivered as provided in sub-rule (1) shall be rejected.

Comments

The nomination paper should be delivered by a candidate him self to the Returning Officer at the appointed date place and time. The nomination paper should be in the prescribed form, but if printed form be not available, a cyclostyled, type-written or hand-written form can be used. A nomination form received after the time fixed therefor or not filled in properly or not in the prescribed form shall be rejected under sub-rule (2) of this rule.

A nomination paper delivered after time fixed for the receipt thereof must not be returned but should be accepted. It should be rejected only at the time of scrutiny on the ground of late presentation.¹

1. *Devi Raj Singh V. Ram Chandra* 1963 1. L. R. (14-Raj.) page 372.

17. *Procedure upon delivery of nomination papers.*—

Upon delivery of a nomination paper under rule 16, the Returning Officer shall inform the person so delivering the same of the day, hour and place appointed for the scrutiny and shall endorse thereon in his handwriting—

(i) the serial number of the ward from which the candidate proposes to seek election.

(ii) the serial number of the nomination paper for such ward,

(iii) the name of the person delivering the nomination paper together with the name of the person, if any, identifying such person, and

(iv) the date on which, and the hour at which, the nomination paper was delivered to him.

18. *Scrutiny of nomination papers.*—(1) On the day and by the hour appointed under sub-clause (b) of clause (ii) of sub-rule (1) of rule 14 for the scrutiny of nomination papers, the Returning Officer shall examine the same.

(2) At the time of such examination the candidates themselves and no other person may attend and the Returning Officer shall afford each of them—

(i) all reasonable facilities for examining the nomination papers delivered by others, and

(ii) a reasonable opportunity of making objections to any of them.

(3) The Returning Officer shall decide all such objections and may, either on the basis of such objection or on his own motion, reject any nomination paper on any of the following grounds, namely:—

(a) that the candidate is not qualified or is disqualified for election;

(b) that he is not identical with the person whose number or name on the voters' list is stated in the nomination paper to be the number or name of the candidate;

(c) that his signature is not genuine or has been obtained by fraud, coercion or undue influence;

(d) that there has been a failure in complying with the provisions of rule 16.

(4) The Returning Officer shall endorse on each nomination paper his decision accepting the same and, in case of rejection, a brief statement of his reasons for such rejection.

(5) The scrutiny shall be completed on the same day and no adjournment of the proceeding shall be allowed.

Comments

1. General

This is a very important rule. The scrutiny of the nomination papers should be undertaken by the Returning Officer in the presence of the candidates at the place and at the time specified in the notification issued under rule 14. The candidates will be permitted to inspect the nomination papers and file objections in respect thereof. It is not necessary that the candidates must be present at the time of the scrutiny of the nomination papers. The Returning Officer should examine each nomination paper by turn and decide all objections in respect thereof there and then. He can also reject any defective nomination paper at his own instance. Scrutiny of nomination papers should not be postponed to another day and the work should be completed on the same day.

A nomination paper can be rejected on any of the following grounds stated in this rule. No nomination paper should however, be rejected on any other ground and it should be borne in mind that wrongful rejection of nomination paper can result in the setting aside an election. Wrongful acceptance of a nomination paper can also be a good ground for sett-

ing aside an election if it is proved that it has materially affected the result of the election of the returned candidate. Minor mistakes as to the spelling of the name or surname of a candidate or failure to mention the age or the date of filing the nomination paper should be ignored, if the identity of a candidate is otherwise established.

2. *Grounds for rejection of a nomination paper :—*

(a) that a candidate is not qualified to stand for election on the date of filing the nomination paper.

(b) that the candidate is not the same person whose number in the electoral roll is stated in the nomination paper.

(c) that the signature of the candidate on the nomination paper are not genuine or obtained by fraud, coercion or under influence or the thumb mark thereon is not duly attested.

(d) that the nomination paper has not been filed in time or is not in the prescribed form.

3. *Scrutiny of nomination papers.*

The Returning Officer should proceed to examine the nomination papers in the presence of the candidates at the place and time appointed for the scrutiny of the same. He should hear and decide all objections on the same day. The Returning Officer should give his decision after careful consideration of all the points, because he has no right to review his decision nor there is any appeal provided against his decision except by way of an election petition after the declaration of the election results. The Returning Officer cannot return a nomination paper to a candidate for rectifying any error therein. He has no such powers. If the errors are minor, he can ignore them and if they are material he should reject the nomination paper. There is no middle course open for him.

4. *Qualifications to exist on the date of the filing of the nomination paper.*

The relevant date for determining whether a candidate is qualified or not for standing at an election is the date of filing the nomination paper. Subsequent acquisition of any qualification or removal of a disqualification before the date of scrutiny of the nomination paper will be of no avail.

For ascertaining the existence of any qualification in a particular candidate, the Returning Officer can make a summary enquiry and during such enquiry he can also put the candidate to a brief test, if necessary, to assess his literary qualifications.

5. *Attestation of thumb impression is necessary.*

In case of an illiterate candidate, his thumb mark put on the nomination paper should be attested before the nomination paper is filed. If a thumb mark is not attested, the nomination paper is liable to be rejected.

6. *Principles governing the rejection or acceptance of nomination papers.*

In Multan Division town (second case), I.E.C.D, Vol. II, p. 302. the following principles were laid down which are a good guide for the returning officer :—

(a) trivial misdescriptions in nomination papers do not invalidate them, especially if they do not create any doubt or misgiving regarding the identity of the constituency in question or that of the candidate, proposer or seconder;

(b) the court should not insist on absolutely literal or meticulous accuracy in filling up nomination papers, but there must be substantial compliance with the rules regarding the description or particulars which are to be given in the nomination papers;

(c) where facts as to the identity can be ascertained by making a summary enquiry; such an enquiry should be made, and rejection of nomination paper without such enquiry is improper.*

Trivial mistakes in filling the nomination papers should be ignored. The following are some instances of such trivial mistakes. These should be kept in mind as they will prove to be helpful in deciding the objections in respect of nomination papers :—

(i) Where the word “Mr” or “Sardar” was affixed before the name of the candidate when no such words appeared in the electoral roll, the rejection of the nomination paper (on this ground) was held invalid :

Rawalpindi and Lahore Division, D.E.C., Vol. II (Case No. 155)

(ii) The rejection of the nomination paper on the ground that the proposer whose name was “Charan Dass” signed it as “Charan Dass Joneja” was held to be illegal : Rawalpindi and Lahore Division case (Supra).

(iii) A nomination paper was rejected on the ground that the address of the candidate was not identical with his address given in the electoral roll. The order of rejection was set aside : Rangoon East, D.E.C., Vol. II (Case No. 150).

(iv) The name of the candidate was “U Thet Hanan” but some time he was also called as “U Thit Hanan”. The Returning Officer rejected the nomination paper on the ground of dissimilarity of names. The order of rejection was set side by the Election Court : Rangoon East (Supra).

(v) Where the age as well as address given in the electoral roll were different from those given in the

*DOABIA Law of Election LS& Election petitions Vol. I Third Edition page 51.

nomination paper for which reason it was rejected, the Election Court set aside the order of the Returning Officer : Raipur, D.E.C., Vol. II (Case No. 148).

(vi) Where a column of absolutely no importance was left blank and the nomination paper was rejected on this ground by the Returning Officer, the Election Court declared the nomination paper to be valid : Shillong Rural, D.E.C., Vol. II (Case No. 174).

(vii) The name of the father of a candidate was "Thakar Dwarka Prasad Singh". In the nomination paper, however, "Th." was used for "Thakar", and "Pd." was used for "Prasad". The nomination paper was rejected by the Returning Officer, but the Election Court held it to be valid : Azamgarh District, D.E.C., Vol. I (Case No. 21).

(viii) The proposer was entered in the electoral roll as "Rai Ras Behari" but in the nomination paper his name was entered as "Rash Behari Lal". For this little discrepancy the Returning Officer rejected the nomination paper. It was held by the Election Court that this defect was wholly immaterial, unless it was proved that there was another person existing with this very description : Azamgarh District case (Supra).

(ix) The writing of the title "Rai Bahadur" as "R.B." while writing the name of the candidate does not invalidate the nomination paper : Ambala Division, D.E.C., Vol. I (Case No. 15).

(x) Where in the signature of the proposer his title "Rai Sahib" was not mentioned, it was held that the nomination paper could not be rejected for this reason Ambala Division, D.E.C., Vol. I (Case No. 5).

(xi) The name of the proposer was "Bhawani". In the electoral roll, however, his name was given as

“Bhamani”. There was another discrepancy in another name, namely, the name “Lalja” was written as “Laljiya”. The Returning Officer rejected the nomination paper on these grounds. It was held that the order of the Returning Officer was wrong : Aligarh District West, D.E.C., Vol. I (Case No. 11).

(xii) The mere fact that the word “year” was not mentioned while describing the age was held to be an immaterial defect and this was held to be not sufficient to warrant rejection of the nomination paper : Aligarh District West (Supra).

(xiii) A candidate put in some of the nomination papers the name of his natural father, while in others he put the name of his adoptive father. It was held that as long as the identity of the candidate was established, the nomination paper could not be rejected for this reason : Aligarh District East (Supra).

(xiv) Where the candidate was Mentioned as “Tara Prasad” in the nomination paper but was entered as “Tara Prasad Barua” in the electoral roll and the identity of the candidate was never challenged, but on the other hand it was fully established, it was held by the Election Court that the nomination paper could not be rejected on this ground : Golaghat, D.E.C., Vol. I (Case No. 70).

(xv) The omission of the name of the father of the candidate from the nomination paper is not fatal, because in order to invalidate a nomination paper an omission must be material : Punjab Anglo Indian Constituency (Second case), I.E.C.D., Vol. I, p. 252.

(xvi) Where in the declaration portion of the nomination paper the place meant for giving the date was left blank, it was held that the order of rejection was wrong

Rawalpindi Division Rural General, I.E.C.D., Vol. I, p. 82.

(xvii) The caste of a candidate was "Mahtani", but it was wrongly described as "Mehtabi" in the electoral roll. The nomination paper was rejected on this ground, but it was held to be an illegal order : South Western Towns General, I.E.C.D., Vol. I, p. 105.

(xviii) The order of the Returning Officer rejecting the nomination paper of a candidate on the ground that the word "Aggarwal" which was the caste of the candidate was not mentioned in the nomination paper was set aside by the Election Court : Sitapur District East General, I.E.C.D., Vol. II, p. 217.

(xix) A nomination paper cannot be rejected simply because the religion of the Scheduled Caste candidate is wrongly mentioned therein : Rattan Singh V. Davinder Singh, II E.L.R. 67; Lakshmana Pillai V. Chengam Pillai, 2 E.L.R. 103.

(xx) Where a member of a Scheduled Caste mentions himself in the declaration as a "Harijan," the nomination paper cannot be rejected on the ground that the description given is not sufficient and accurate: Lakshmana Pillai V. Changam Pillai, 2 E.L.R. 103.

(xxi) A nomination paper cannot be rejected on the ground that the proposer of a candidate himself stood for election as a candidate : Hari Vishnu Kamath V. Sayed Ahmed, 5 E.L.R. 248.

(xxii) In a nomination paper the number of electoral roll and the signature of the proposer were given. The name of the proposer was not mentioned in column No. 9. It was held that the nomination paper could not be

rejected for this reason : Bankat Lal V. Madan Mohan, 3 E.L.R. 375.

(*xxiii*) Rejection of a nomination paper on the ground that the candidate was not present at the time of scrutiny of the nomination papers was held to be wrong by the Rajasthan High Court in Anandi Lal Vs. Chief Panchayat Officer (1957 R.L.W. 306).

(*xxiv*) The rejection of a nomination paper on the ground that the age of the candidate was not entered in the nomination form was held to be correct (1 E.L.R 182), but a minor difference in the age of the candidate as entered in his nomination paper and as entered in the electoral roll can be ignored or the candidate can be asked to prove that his age as entered in the nomination form was correct. In Raipur North case (2 H.I.E.P. 232) it was held that the rejection of the nomination paper on the ground that the age of a candidate in the nomination form was entered as thirty years whereas in the electoral roll it was thirty-three years, was bad because it was a minor discrepancy not relevant for the qualification of the candidate. Age as entered in the electoral roll is not conclusive evidence and can be disproved.

(*xxv*) Omission to mention the date on the nomination paper was held to be a minor omission in Calcutta South Case (2 H.I.E.P. 87).

(*xxvi*) Refusal to accept a nomination paper presented after the time or returning the same to the candidate was held to be bad as the returning officer had no such powers. He should accept the nomination paper and note the time of presentation thereon and then at the time of its scrutiny reject the same (1 H.I.E.P. 182).

(*xxvii*) Nomination paper should not be rejected on the ground that a candidate has filed two nom :

papers. The proper course will be to examine the first nomination paper and give his decision thereon and ignore altogether the nomination papers filed after the first, but rejection of both the nomination paper without examining any of them was wrong. (Ram Sarup Vs. Kapoor Chand 1957 R.L.W. 613)·

19. *Withdrawal from candidature.*—(1) Any candidate may withdraw his candidature by notice in writing in duplicate signed by him and delivered to the Returning Officer on the date and by the hour appointed under sub-clause (c) of clause (ii) of sub-rule (1) of rule 14.

(2) No notice of withdrawal shall be entertained after the day and the hour referred to in sub-rule (1).

(3) A candidate who has withdrawn his candidature shall not be allowed to cancel the notice of withdrawal. ¹[× × × ×]

(4) The Returning Officer shall, on receiving a notice of withdrawal under sub-rule (1), cause, as soon as may be, one copy of to be exhibited at some conspicuous place in the office of panchayat or in any conspicuous place at the headquarters of Panchayat where no Panchayat office is established.

20. *Subsequent procedure to be observed by Returning Officer.*—(1) Immediately after the time fixed by sub-rule (1) of rule 19 has expired, the Returning Officer shall, for each ward, cause to be prepared a list in Form II showing the names of the candidates whose nomination papers have been accepted and have not been withdrawn.

(2) If the number of such candidates is equal to or less than the number of panchas to be elected from a ward, the

1. Omitted by Notification No. F. 4 (L1) 25 (14), 70380 dated 23-11-60 published in Rajasthan Gazette, Ex. ordy. Part IV-C, dated 23-11-60.

Returning Officer shall declare all such candidates to be duly elected.

(3) If the number of such candidates exceeds the number of panchas to be elected from a ward, the Returning Officer shall—

(i) assign a symbol to each such candidate out of the symbols mentioned in Schedule I to these Rules, ¹[or in case the number of candidates exceeds twelve, any other symbol not belonging to any political party.]

(ii) have the names of all such candidates in alphabetical order published, alongwith the symbol assigned to each, by being affixed at the office of the panchayat, if any, and at two conspicuous places in the ward.

(iii) direct that a poll shall be taken on the date and between the hours appointed under sub-clauses (d) and (e) respectively of clause (ii) of sub-rule (1) of rule 14.

(iv) proceed to make further arrangements necessary for the holding of the poll.

(4) Ballot papers for the purpose of the poll, shall be in Form III in Hindi written in Devnagri script and shall be serially numbered. ¹[× ×]

(5) If, before the commencement of the poll, any such candidate becomes subject to any of the disqualifications mentioned in section 11 or dies, the Returning Officer shall, upon being satisfied of the fact of such disqualification or death,—

(a) cancel his name in the ballot paper, and

1. Inserted by Notification No. F. 4 (LJ) 25 (14), dated 28-11-60 published in Rajasthan Gazette, Ex. ordy. Part IV-C, dated 28-11-60.

1. Omitted by Notification No. F. 4 (LJ) 25 (14), dated 31-10-60 published in Rajasthan Gazette, Ex. ordy. Part IV-C, dated 31-10-60

(b) if, in consequence of such cancellation, the number of candidates referred to in sub-rule (1) becomes equal to the number of panchas to be elected from a ward, forthwith declare the remaining candidates to be duly elected.

Comments

It is necessary to publish the list of validly nominated candidates under this rule. The list will be published in from No. II and will be affixed on the notice board of the Panchayat concerned and two conspicuous places of the Panchayat circle. The names of the candidates will be published in alphabetical order written in hindi in Deonagri script along with the symbols allotted to each candidate. The symbols are already printed on the ballot papers. These will be allotted by the Returning Officer to the candidates in the same order in which their names stand in the alphabetical order written in hindi in Deonagri script. The publication of this list is obligatory and failure to publish this list may result in the setting aside of election.

21. *Polling stations and polling booths.*—(1) If a poll is to be held in any ward, the Returning Officer shall select a suitable place for a polling station:

Provided that the place so selected shall not ordinarily be out side the place of the headquarters of the panchayat to which the election is to be held.

(2) The Returning Officer may establish in each polling station as many polling booths ¹[× × ×] as he may consider necessary and, where more booths than one are so established, he shall direct in relation to each booth, that the electors of the

1. Omitted by Notification No. F. 4 (LJ) 25 (14) 70380 dated 23-11-60 published in Rajasthan Gazette, Ex. ordy. Part IV-C. dated 23-11-60.

ward, commencing from and ending with specified serial numbers on the voters list thereof, shall be admitted to cast their votes in that booth.

22. *Polling officers and other staff.*—(1) The Returning Officer shall appoint, by name or by virtue of office, as many persons as there are polling booths established in a ward in which a poll is to be held, to act as polling officers and such other staff as he thinks necessary to assist each polling officer.

(2) The polling officers and other staff appointed under sub-rule (1) shall perform such duties and exercise such powers as are imposed and conferred on them by these Rules, or as are entrusted to them by the Returning Officer.

Comments

The collector will place at the disposal of the Returning Officer such polling staff as may be necessary. The Returning Officer should contact all the members of his polling party before proceeding to the polling Station, where he should reach one day before the date fixed for the receipt of the nomination paper.

The Returning Officer should also obtain the necessary equipment required for the polling according to the schedule and check up before proceeding to the polling Station.

23. *Supply of election materials.*—(1) Each polling station shall be provided with materials, including ballot papers, copies of voters' lists and ballot boxes, sufficient for the purpose of enabling electors to cast their votes.

(2) In supplying such materials, regard shall be had to the number of electors entitled to vote at that polling station and the number of polling booths established therein.

24. *Ballot boxes.*—(1) Every ballot box s

polling station shall bear the name of the panchayat and the number of the ward of the panchayat circle.

(2) Every ballot box shall be so constructed that ballot papers may be introduced therein but cannot be withdrawn therefrom without the box being unlocked.

25. *Commencement of poll.*—(1) The poll shall commence at the hour, appointed for such commencement.

(2) Immediately before such commencement, each polling officer shall—

(i) show every ballot box to such of the candidates as may be present at the time in verification of the fact that it is empty,

(ii) thereafter lock the same.

(iii) place a seal thereupon in such manner as to prevent its being opened or unlocked without breaking the seal, and

(iv) place it within his view.

Comments

The polling should start at the appointed hour and should also close at the appointed time. If some voters have entered the polling Station before the close of the poll, then they will be allowed to vote. The Returning Officer shall order the enclosure of the polling station to be closed at the time when the poll is scheduled to be over. He shall then allow such of the voters to cast their votes who have entered the polling station even after the time for voting is over.

In *Radhakrishnan Vs. Masilamani* (2 E.L.R. 148) it was held that late beginning of voting and consequent late closing thereof would not vitiate elections unless it is proved that such an act adversely affected the result of the poll.

26. *Voting to be personal and by ballot and in polling station or booth previously directed.*—(1) At every polling booth, votes shall be cast by ballot and in person and the polling officer shall not allow any votes to be cast by proxy.

(2) No elector shall be admitted to cast his vote elsewhere than in the polling station or in the polling booth as directed under sub-rule (2) of rule 21.

Comments

The place of poll should not be changed. However, in extraordinary and unavoidable circumstances, the returning officer may change the place of polling, but sufficient notice of the same should be given to the voters e. g. announcement by beat of drum in the constituency. The new place of poll should be as near as possible to the previously fixed place and be such that its name and description may not cause any confusion.

27. *Arrangements for secrecy of voting.*—(1) Each polling station or booth, as the case may be, shall contain a separate compartment in which electors can cast their votes screened from observation.

(2) While an elector is in such compartment, no other person shall, subject to the provision contained in rule 31, enter it, but the polling officer may occasionally enter it, along with the candidates if they so desire.

Comments

To ensure free and impartial elections, the secrecy of the Voting is the foremost thing. The Returning Officer should make suitable arrangements to ensure that the polling compartment i.e. the place where a voter actually votes for a candidate by affixing the seal of cross mark (X) on the ballot paper is kept away from the view of others by an screen or like enclosure and the voter brings back the

marking the same duly folded in such a manner that the marking is not revealed to any body. The voter will himself insert the folded ballot paper in the ballot box, though in case of difficulty he can be assisted by the Polling Officer.

¹[28. *Identity of electors.*—Immediately before the ballot paper is delivered to an elector, the polling officer shall satisfy himself as to the identity of the elector with reference to the entries relating to that elector in the voters' list. He shall also hear and decide then and there any objection raised in this behalf. He may refuse to issue a ballot paper or papers to any person who declines to answer any reasonable question put to him for the purpose of ascertaining such identity or whose identity is not established to his satisfaction, but issue of ballot paper shall not be refused merely on the ground of any typographical error or omission in the relevant entries of the voters' list if the identity of the elector is otherwise established.]

²[29. The polling officer shall while issuing the ballot paper to an elector—

(i) note the number of the elector in the Voters' list on the counterfoil of the ballot paper, and

(ii) place a tick mark against the number of such elector in the copy of the voters' list in use with him to denote that the elector has received a ballot paper.]

Comments

This rule contains no marginal heading.

30. *Manner of casting votes.*—(1) An elector shall, on receiving the ballot paper issued to him under rule 28, forthwith proceed to the polling compartment, there mark his ballot paper by affixing a seal containing a cross mark (×) opposite the

. Substituted by Notification No. F. 4 (LJ) 25 (14), 70380 dated 23-11-60 published in Rajasthan Gazette, Ex. ordy. Part IV-C dated 23. 11. 60.

. Substituted by item 5 *ibid.*

name and symbol ¹[or on the name or symbol] of the candidate in whose favour he desires to cast his vote, fold up the ballot paper thus marked so as to conceal his vote and put the ballot paper, so folded up into the ballot box which shall be placed within the view of the polling officer.

(2) Every elector shall record and cast his vote without undue delay and shall quit the polling compartment, the polling booth and the polling station as soon as may be conveniently possible.

Comments

Most of the voters are illiterate and hence they should be explained the method of exercising their right of vote by the polling officer on duty. The polling officer may demonstrate the manner in which a vote is to be cast. The voter should be explained that he has to put the cross seal opposite the column of his candidate and or on his name or symbol itself but not on the line separating the names and column of two voters so as to cause any confusion about his choice. The voter shall also be asked to fold the ballot paper only after the ink of the cross mark has dried up so that it may not cause another impression elsewhere on the ballot paper. The voter should be directed not to publicly display his ballot paper after he has voted for his candidate and if he does so in spite of such directions his ballot paper will not be allowed to be put in the ballot box. However, if a voter innocently tries to put his ballot paper in the ballot box without folding it, he should not be prevented from doing so provided the secrecy of the ballot is not violated.

(Ram Singh Vs. Munsif Bundi 1962 I.L.R. (12) Raj 191)

31. *Assistance to illiterate and infirm electors.*—If an elector, owing to illiteracy or physical infirmity, is unable to

1. Inserted by Notification No. F-4(LJ)(14), 70380 dated 23-11-60 published in Rajasthan Gazette Extra-ordy. Part IV-C dated 23-11-60.

record his vote in the manner laid down in rule 30, the polling officer shall do so according to the directions of the elector and shall note on the counterfoil of the ballot paper the reason for such action.

32. *Spoiled ballot papers.*--An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as such, may on delivering it to polling officer and satisfying him of the inadvertance obtain another ballot paper in place of the spoilt ballot paper and such spoilt ballot paper, together with its counterfoil, shall be marked by the polling officer as cancelled.

33. *Return of ballot papers.*--If any elector, after obtaining a ballot paper for the purpose of casting his vote, decides not to use the same or to cast his vote, he shall return the ballot paper, so issued to him, to the polling officer and the ballot paper so returned shall then be marked by the polling officer as cancelled on account of such return.

Comments

A voter is free to change his mind after receiving the ballot paper and he may return the same to the returning officer, but he shall not be allowed to take away the ballot paper with him.

34. *Removal from polling station for misconduct.*--(1) If any person misconducts himself at a polling station, or fails to obey the lawful orders of the Returning Officer or any polling officer appointed therefor, the Returning Officer or such polling officer, as the case may be, shall immediately, remove, or order any police officer present thereat to remove, from the polling station the person so misconducting himself, and such person shall not be allowed again to enter the polling station without the permission of the Returning Officer or the polling officer.

(2) No removal from a polling station shall be ordered under sub-rule (1) so as to prevent an elector, entitled to cast his vote thereat, for having an opportunity of casting the votes.

Comments

Removal of a person from the polling station should be ordered in extreme cases, and care should be taken to see that no bonafide voter is denied his right to vote in the execution of such an order.

35. *Closing of poll.*—(1) The polling officer shall close the polling station at the hour appointed for such closure so as to prevent the entry therein of any elector after that hour.

(2) Any electors who have been admitted thereto before that hour shall, however, be allowed to cast votes even after that hour.

36. *Procedure on closing of poll.*—(1) As soon as practicable after the close of the poll, the polling officer shall, in the presence of such candidates as may be present there—

(i) examine each ballot box used at the polling station to see that it is unopened and has not been tampered with,

(ii) affix his seal thereon,

(iii) make up into separate packets—

(a) the unused ballot papers,

(b) the spoilt ballot papers,

(c) the ballot papers returned and cancelled under rule 33,

(d) the marked copy of the voters list, and

(e) the counterfoils of the used ballot papers,
and

(iv) affix his seal to every such packet.

(2) Subject to any directions given by the Collector or the Returning Officer in that behalf, the ballot boxes and packets referred to in sub-rule (1) shall be forwarded by the polling officer to the Returning Officer.

37. *Adjournment of poll.*—(1) The Returning Officer may, in emergencies such as a likely disturbance of the public peace, close the poll and announce an adjournment thereof to a subsequent day.

(2) The circumstances leading to such closure and adjournment shall be reported by the Returning Officer forthwith to the Collector.

Comments

The Returning Officer can adjourn a poll in case of any emergency, such as riot or breach of peace. He should in such a case also announce the date when the poll shall be resumed. On the resumption of the poll, the polling shall be commenced from the stage at which it was adjourned. In other words there shall be no re-polling. However, if the ballot box has been tampered with or taken away or if the voters list which is used for marking as provided in rule 29 at the time of issuing ballot papers is taken away, then there will be a fresh poll, but then also fresh nominations shall not be invited but only polling will be done afresh.

38. *Counting of votes.*—(1) The counting of votes shall commence on such date and at such time and place as the Returning Officer may appoint.

(2) Such date, time and place shall be communicated to all the candidates.

(3) Votes shall be counted by or under the supervision of the Returning Officer and each candidate shall have a right to be present at the time of counting.

(4) No other person shall be allowed to be present at the counting of votes except those whom the Returning Officer may appoint to assist him in the task.

(5) The Returning Officer shall allow each candidate a reasonable opportunity to inspect, without handling, the ballot papers which he considers to be liable to rejection.

(6) Any candidate present at the counting may, at any time during the counting of votes, request the Returning Officer to recount the ballot papers of all or any of the candidates including himself and the Returning Officer shall thereupon recount the same.

(7) The Returning Officer may, in his discretion, recount the ballot papers of all or any of the candidates once or more than once, if he is not satisfied as to the accuracy of the immediately preceding count.

39. *Rejection of ballot papers.*—(1) A ballot paper shall be liable to rejection—

(i) if it bears any mark by which the elector can be identified,

(ii) if the number of votes recorded thereon exceeds the number of panchas to be elected,

(iii) if no vote is recorded thereon,

(iv) if the ballot paper or the vote recorded thereon is void for uncertainty, or

(v) if it is otherwise not in conformity with rules.

(2) No ballot paper shall be rejected otherwise than on any of the grounds enumerated in sub-rule (1).

(3) The Returning Officer shall record on every ballot paper which he rejects a brief statement of the reasons for such rejection.

(4) The decision of the Returning Officer as to the validity or otherwise of the ballot paper shall be final.

Comments

1. *Rejection of ballot paper:—*

Only such ballot papers which contain any of the discrepancies stated in the rule shall be rejected. These are as follows:—

(i) The ballot paper bears any mark by which the elector can be identified;

(ii) the number of votes recorded thereon exceeds the number of candidates to the election;

(iii) if no vote is recorded;

(iv) if the ballot paper on the vote is void for uncertainty.

Besides the above, if the ballot paper is itself defective e. g. it does not bear the seal or initials of the Returning Officer or is not otherwise in order the ballot paper shall be rejected. Clause (v) of sub-rule (i) refers to any defect in the ballot paper itself.

2. *Void for uncertainty:—*

If a ballot paper contains (S) mark instead of a (X) mark then too it will be held to be valid because the marking clearly indicates the choice of the elector (Ramdayal V. Munsif Rajgarh. 1961 R. L. W. 499). In one case the voter instead of putting the X mark in the column meant for the same, put it on the name of a candidate or in the column bearing his name, the vote was held to be valid. If by folding ballot paper the cross mark impression is made against the name of more candidates than those who are to be elected, the ballot paper will be rejected.

3. *Ballot papers in the ballot box only to be counted:—*

Only those ballot papers which are inserted in the ballot box will be counted. If due to the mistake of a Returning Officer some ballot papers are not allowed to put in the ballot box, then these votes shall not be counted though this may be otherwise valid votes. Such votes shall not be counted though this may be good ground for election petition. In *Ramsingh Vs. Munsif Bundi*, the Returning Officer did not permit seven ballot papers to be put in the ballot box because they were not folded. The High Court held that the Returning Officer should have allowed the ballot papers to be put in the Ballot box because non-folding of the ballot papers did not vitiate the secrecy of the ballot. As wrongful rejection of the ballot papers materially affected the result of the elections, the High court set aside the elections in this case. (*Ramsingh Vs. Munsif Bundi* 1961 R. L. W. 51).

40. *Procednre in case of equality of votes:—*Where an equality of votes is found to exist between any candidates in a ward and the addition of one vote will entitle one of such candidates to be declared elected, the determination of the person to whom such additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

41. *Result of election:—*(1) When the counting of votes has been completed, the Returning Officer shall—

(a) make up separate packets of—

(i) the counted valid ballot papers, and

(ii) the ballot papers rejected at the counting,

(b) affix his seal to each such packet,

(c) prepare and certify a return in form IV setting forth therein—

(i) the names and addresses of the candidates who have been declared under sub-rule (2) of rule 20 to have been elected unopposed,

(ii) the names and addresses of the candidates for whom valid votes have been cast,

(iii) the number of valid votes cast for each candidate,

(iv) the number of votes rejected as invalid, and

(v) the result of the lot, if any, drawn under rule 40, and

(d) declare the candidate, or, in case of a multi-member ward, the candidates, who has or have secured the largest number of votes, as a result of the poll or the lot drawn under rule 40, to be elected, and

(e) specify the wards which have failed to elect the requisite number of Panchas.

(2) As soon as may be possible, the Returning Officer shall forward—

(i) one copy of the return prepared under sub-rule (1) to the office of the panchayat, if any,

(ii) one such copy each to the officer-in-charge of panchayats, and to the newly elected Sarpanch or to the Up-Sarpanch, if there is no Sarpanch,

(iii) one copy thereof, alongwith all papers relating to the election, to the Collector.

(iv) one such copy to the Panchayat Samiti of the Block within which the Panchayat circle lies.

Comments

The result of election shall be declared immediately by the Returning Officer after the counting has been completed.

and be intimated to the concerned parties. One copy of the return prepared under sub rule (1) it shall also be forwarded to the person specified in sub rule (2). The declaration of result by the Returning Officer is mandatory as until this is done, the elected persons cannot take the oath of their office, nor the defeated candidates can file election petitions. Only the Returning Officer can declare the result of the election. It can be done by no other authority.

42. *Custody, production, inspection and destruction of election papers.*—(1) All papers relating to election shall remain in the custody of the ¹[Dy. District Development Officer].

(2) The packets of ballot papers, whether counted or not, and of the counterfoils thereof, shall not be opened and their contents shall not be inspected or produced except under the orders of the officer or authority competent to hold inquiries in respect of an election or of a court of competent jurisdiction.

(3) All documents other than the packets mentioned in sub-rule (2) shall be open to inspection subject to such conditions as the ¹[Dy. Distt. Development Officer] may impose and further subject to the payment of a fee of one rupee and attested copies thereof may be obtained by any person on payment of the same fees as are prescribed for obtaining copies of revenue records.

(4) All election papers shall be retained for a period of three years computed from the date of election and thereafter shall, subject to any directions to the contrary made by the officer-in-charge of panchayats or the officer or authority competent to hold inquiries in respect of elections under the Act or a competent court, be destroyed.

43. *Nomination of panchas, if necessary.*—(1) Upon receipt of the copy of the return under rule 41, the officer-in-

charge of panchayats, ¹[or such officer to whom the powers of the officer-in-charge of Panchayats may have been delegated by the State Government by a Notification under section 70,] shall forthwith appoint, where necessary under section 8, a person or persons qualified for election under section 11 as panchas and shall inform the Collector and the Panchayat office, if any, of such appointment.

(2) For this purpose he may invite recommendations from the Collector and may or may not act thereon.

44. *Notification of names of panchas.*—The names of all panchas elected or appointed under rule 43 shall be forthwith notified by the ²[Dy. Distt. Development Officer] in the Official Gazette of the State.

45. *Power to overlook printing or clerical errors.*—If a question arises for the decision of Returning Officer or a Polling Officer under these rules whether an entry in a voters' list relates to a particular person, such officer may, for reasons to be recorded in writing, decide that the entry does or does not relate to the said person, notwithstanding any clerical or printing errors therein.

46. *Bye-elections.*—(1) In the case of any of the following events, namely:—

(i) whenever a panch is appointed under section 8 and rule 43, or

(ii) whenever a panch vacates his seat or is removed from his office under section 17, or

(iii) whenever a panch resigns his office, or

2. Substituted vide Notification No. F. 4/LJ/2(8)34769, dated 7-8-62, published in Rajasthan Gazette, Part IV-C, dated 7-8-62.

1. Inserted by Notification No. F. 4(LJ) (25) (14), 66004, dated 18-10-60 published in Rajasthan Gazette, Extraordinary Part IV-C, dated 18-10-60.

(iv) whenever a panch dies, while in office, a bye-election shall be held under section 20.

(2) The provisions of rules 14 to 45 shall *mutatis mutandis* apply so far as may be, to every such bye-election.

¹[47. × × ×]

Comments

This rule has now been renumbered and put as rule 90 vide notification no F4 (LJ) 25/74/41670 dated 26-7-1961. There in now no rule as number 47.

(4) Election of Sarpanch

48. *Simultaneous election of Sarpanch and Panchas.*—

²[(1) A candidate at an election may appoint any person not exceeding one for one polling station other than himself to be his election agent and when any such appointment is made, notice of the appointment shall be given in writing to the Returning Officer.]

³[(IA) On every occasion of a general election referred to in sub-rule (1) of rule 14, the election of the Sarpanch of a panchayat under sub-section (1) of section 13 shall be held simultaneously with the election of panchas therefor.]

(2) The provisions of rules 14 to 45 shall, so far as may be, apply *mutatis mutandis* to such election.

⁴[(3) (a) The polling compartment and the ballot box provided for the casting of votes by electors in relation to the

1. Renumbered and placed as 90 by notification No. F. 4 (LJ) 25 (14) 41670 dated 26-7-61 published in Rajasthan Gazette, Part IV-C, dated 31-8-61.

2. Renumbered by notification No. F. 4(LJ) (25) (14), 70380 dated 23-11-60, published in Rajasthan Gazette, Ex-ordy. Part IV-C, dated 23-11-60.

3. Inserted by notification No. F. 4(LJ) 25 (14), dated 23-11-60, published in Rajasthan Gazette, Ex-ordy. Part IV-C, dated 23-11-60.

4. Substituted by item 8 *ibid*.

election of the Panch may be used for the casting of votes by electors in relation to the election of the Sarpanch also unless a separate polling compartment and/or a separate ballot box is provided for the same.

(b) In case one ballot box is provided or used for the election of Panch and Sarpanch, the ballot box shall bear the name of the seat of the Sarpanch besides other particulars mentioned in Rule 24(1).]

(4) Every elector qualified to vote at a polling booth for election of a panch ¹[× × ×] shall be issued, another ballot paper by a separate polling officer for the election of the Sarpanch.

(5) In case a Panchayat circle has failed to elect a Sarpanch, the fact shall be forthwith reported by the Returning Officer to the Collector, the officer in-charge of Panchayats and the State Government which shall appoint a person as Sarpanch under sub-section (3) of section 13.

49. *Bye-election of Sarpanch.*—(1) In the case of any of the following events, namely :—

(i) whenever a Sarpanch is appointed by the State Government under sub-rule (5) of rule 48, or

(ii) whenever a Sarpanch dies or resigns his office under section 18, or

(iii) whenever a Sarpanch vacates his seat or is removed from his office under section 17, or

(iv) whenever a motion of no-confidence is carried against a Sarpanch under section 19,

a bye-election shall be held under section 20.

1. Omitted by Notification No. F. 4 (LJ) 25/14, dated 23-11-60 published in Rajasthan Gazette, Ex-ordy. Part IV-C, dated 23-11-60.

(2) The provisions of rules 46 to 48 *shall mutatis mutandis* apply to such bye-election so far as may be.

(5) *Co-option of panchas.*

50. *Notification for co-option.*—Where the newly elected Sarpanch finds, on perusing the result of the election of panchas of a panchayat, that the co-option of a panch or panchs therefor is necessary under section 9, he shall forthwith call upon panchas newly elected to co-opt the requisite number of panchas.

51. *Special meeting for co-option.*—(1) The person elected as Sarpanch shall immediately issue a notice in Form V for the special meeting referred to in sub-section (2) of section 9.

(2) The notice referred to in sub-rule (1) shall be sent to all the panchas elected as aforesaid at their addresses as given in the return under rule 41 and a copy each of the notice shall be endorsed to the Collector.

(3) A copy of such notice shall also be exhibited on the notice board of the panchayat office or in any conspicuous place at the headquarters of the Panchayat, where no Panchayat office is established.

(4) The notice shall specify the dates on which nominations may be made for co-opting the requisite number of panchas.

(5) If the Collector does not receive a copy of such notice within three days after the date on which the Sarpanch was declared to have been elected or the date of the return under rule 41, whichever may be later, the Collector shall call any other officer to convene such special meeting with the newly elected:

¹[Provided that such special meeting shall not be convened before the expiry of fifteen days referred to in sub-section (2) of section 9 of the Act.]

Comments

1. *Election petition to challenge co-option:—*

The cooption proceedings are a process of elections and can be challenged by an election petition, if any rules pertaining there to are not complied with, or are contravened.

2. *Sarpanch's power to call a meeting for co-option not extinguish or after 15 day.*

If a Sarpanch does not convene a meeting for the cooption of members within 15 days of his election, the Collector or an officer appointed by him in this behalf can call such meeting but if the Collector also fails to call such a meeting then the Sarpanch can call such meeting even after 15 days of his election, as his power to call such a meeting does not come to an end after a fortnight. However, if the Collector has taken steps to call such a meeting e. g. issued notice to the panchas and fixed a date for the meeting, then the Sarpanch shall not be entitled to call such a meeting.

52. *Nomination for co-option.*—(1) On or before the date and time fixed in the notice issued under rule 51, any panch who has been newly elected may nominate for co-option a person fulfilling the requirements of section 9 and qualified for being elected as a panch under section 11, of each of such categories of persons mentioned in sub-section (1) of section 9 as are needed to be co-opted.

(2) Such nomination shall be made by delivery at the office of the panchayat or where, there is no such Office, to the

1. Inserted by notification No. F. 4 (LJ) 25 (14), 70380 dated 23-11-60 published in Rajasthan Gazette, Ex. ordy, Part IV-C, dated 23-11-60.

Sarpanch on such date and before such time a notice in Form VI duly signed by the panch making the nomination, with the written acceptance of the person proposed for co-option endorsed thereon.

(3) The Secretary of the panchayat or if there be no Secretary, the Sarpanch thereof or any other officer appointed by the Collector in this behalf shall mark on each notice of nomination the date and time of the delivery thereof.

(4) No notice of nomination shall be entertained after the hour mentioned in the notice under rule 51.

Comments

1. *Taking of Oath not necessary before taking part in co-option:—*

As co-option is a process of election, taking of oath by the panchas is not necessary before the members take part in the co-option.¹

2. *Nomination paper can be filed even before the time fixed for the receipt thereof:—*

Nomination papers need not be filed by the Returning Officer himself but can be filed by any person appointed for the purpose. Non-compliance with the time fixed therefor, before or after the appointed date and time, is not fatal.

3. *More than one nomination*

A candidate can file more than one nomination paper. A nomination paper can not be filed more than once.

53. *Meeting for co-option referred to in sub-section*

1. (Jyoti Bai V. Civil Judge Nagpur) 51

held in the office of the panchayat or at the headquarters of the Panchayat where no Panchayat office is established on the date and the time fixed in the notice issued under rule 51 and shall be presided over by the Sarpanch if he is present or, in his absence, by the officer if any, appointed under the proviso to the said sub-section (2):

Provided that, if both of them are absent, the meeting shall be presided over by such one of the panchas present as may be chosen by them for the task.

(2) Upon the commencement of the meeting, the presiding person shall examine the notice of nominations one by one, shall afford a reasonable opportunity to the panchas present to examine the same and raise objections thereto and shall decide all such objections and may, either on such objection or of his own motion, reject any notice on any of the following grounds, namely:—

(a) that the nominee is not eligible for co-option as panch under the provisions of the Act, or

(b) that there has been a failure in complying with the provisions of the rules.

(3) If any notice of nomination is rejected, the presiding person shall record in writing a brief statement of the reason for such rejection.

(4) The names of all the nominees whose nominations are found in order shall be read out by the person presiding.

(5) If the number of nominees whose names are so read out are equal to the number of panchas to be co-opted, the person presiding shall declare all such nominees to be duly co-opted.

(6) If such number is less than the number of panchas to be co-opted, the person presiding shall declare all such nom-

in-ees to be duly co-opted and shall call for fresh nominations then and there and the provisions of rules 51 and 52 and of this rule shall apply so far as may be.

(7) If the number of such nominees exceeds the number of panchas to be co-opted, the votes of the panchas present at the meeting shall be taken by show of hands in respect of each category of persons referred to in sub-section (1) of section 9 and the nominee securing the largest number of votes shall be declared to have been co-opted :

Provided that, in case of equality of votes, the result shall be declared by drawing of lots in the manner which the person presiding may think proper.

54. *Publication of the names of co-opted members.*—(1) Immediately upon the conclusion of the special meeting, a statement showing the names and addresses of the panchas co-opted thereat shall be drawn up.

(2) A copy of the statement, alongwith all papers relating to the co-option, shall be forwarded to the Collector for record and disposal in accordance with the provisions of rule 42.

(3) If, upon perusal of the papers received under sub-rule (2), the Collector finds that the panchayat has failed to co-opt the requisite number of panchas within a month of the special meeting convened for the purpose, the Collector shall appiont such panch or panchas as required by sub-section (3) of section 9.

(4) Another copy of the statement drawn up under sub-rule (1) shall be forwarded, and the name and address of every panch appointed under sub-rule (3) shall be communicated forthwith to the officer-in-charge of panchayats.

(5) The Collector shall also immediately cause to be published in the Official Gazette the name and address of every

panch co-opted or appointed under section 9 in accordance with these Rules.

Comments

Sub-rule 2 not mandatory:—

In sub-rule 2 it is provided that the Sarpanch shall send a copy of the statement prepared under sub-rule (1) alongwith all the papers relating to co-option to the Collector for record but this provision is not mandatory and the non-compliance of the same will not affect cooption. In *Anchi Vs. Tejsingh* the provision was held to merely of a directory nature.

55. *Bye-co-option.*—If any vacancy occurs in the office of a co-opted Panch and the necessity for such co-option continues to exist under section 9, steps shall be taken by the Sarpanch to have another panch co-opted to fill up vacancy and the provisions of rules 50 to 54 shall apply to such bye-co-option so far as may be.

¹[55-A. *A Co-option of Panchas to Panchayats referred to in section 8A.*—The co-option of the Panchas to a Panchayat referred in section 8-A of the Act shall also be held by the Sarpanch concerned in accordance with these rules.]

(6) *Election of up-sarpanch.*

56. *Meeting for election of up-sarpanch.*—Immediately after the co-option of panchas under rules 50 to 54, the sarpanch shall convene a meeting of the newly elected and co-opted panchas on a date, time and place to be fixed by him for the purpose of electing an up-sarpanch from amongst themselves :

Provided that, if the Sarpanch does not convene such meeting within a week from the date on which the result of

1. Inserted by Notification No. F.4(LJ)(14), 70380 dated 21-1-61 published in Rajasthan Gazette Extra-ordy. Part IV-C dated 21-1-61.

co-option is declared or the election does not take place within a fortnight of the date on which the result of the co-option is declared for any cause whatsoever, or in case the post of the Sarpanch is vacant for any cause, an Officer appointed by the Collector in this behalf shall convene such meeting.

57. Procedure for election.—(1) At the meeting, each panch present thereat may propose in writing the name of any panch for election as up-sarpanch :

Provided that all such proposals shall be made within an hour of the commencement of the meeting and no proposal shall be entertained or received thereafter.

(2) If such panch is not present at the meeting his acceptance in writing of the proposal shall be submitted alongwith the proposal:

Provided that in case the panch proposed for such election is present at such meeting, his written acceptance shall not be necessary if he signifies such acceptance orally.

(3) The person presiding shall read out the names of the persons duly proposed.

(4) subsequently the procedure laid in sub-rules (2) to (7) of rule 53 shall be observed as far as possible.

(5) In other respects the provisions contained in rules 42, 48 and 49 shall apply as far as may be.

(7) *Election of members and chairmen of Nyaya Panchayats.*

¹[58. *Calling upon panchayats to elect Panchayats.*—(1) As soon as may be after co-option under these rules of first Panch

1. Substituted by Notification No. 24 (LJ) 25 (14) in Rajasthan Gazette, Ex. III, Part IV-C.

thereunder of the first Sarpanch for the Panchayat of a Panchayat Circle referred to in Section 8-A, after the co-option of Panchas under rule 55-A, the Collector shall, if such Panchayat Circle has been included in a Nyaya Circle constituted under section 27-B, call upon the Sarpanch and Panchas of such Panchayat Circle to elect a person, not disqualified under subsection (3) of section 27-C, as a member of the Nyaya Panchayat of such Nyaya Circle].

¹[(2) The provisions relating to issue of notice for meeting nominations and their scrutiny contained in rules 51 to 53 shall *mutatis mutandis* apply, so far as may be, to every election :

Provided that—

(a) the election of Nyaya Panchas may be held at the headquarters of the Nyaya Panchayat at a special meeting to be presided over by an officer appointed by the Collector.

(b) the election of Nyaya Panchas may be held either by show of hands or by secret ballot;

(c) If any elector has intimated to the presiding officer that the election should be held by secret ballot or if any one of the electors present at the meeting desires that the election should be held by secret ballot, the presiding officer shall hold the election by secret ballot;

(d) for the election by show of hands the provisions of sub-rule (7) of rule 53 shall, so far as may be, apply;

(e) for the election to be held by secret ballot, the presiding officer may, if necessary, adjourn the meeting for a short time for the preparation of the ballot papers and thereafter, at the resumed meeting, hold the elections;

.. Substituted by Notification No. F. 4 (LJ) 25 (14) 41670 dated 26-7-61 published in Rajasthan Gazette, Part IV-C, dated 31-8-61.

(f) after the votes have been taken, the presiding officer shall count the votes in accordance with the provisions of rules 38 to 41, and

(g) the result of election shall be notified in accordance with the provisions of rule 54.]

59. *Bye-election*.—After the first elections under rule 58, a bye-election shall be held, as and when necessary upon the occurrence of a vacancy or upon the retirement of any member under sub-section (7) of section 27C or upon the inclusion of a Panchayat Circle in a Nyaya Circle under sub-section (2) of section 27B, and the provisions contained in rule 58 shall, as far as may be, apply to every such bye-election.

60. *Election of Chairman*.—¹[(1) As and whenever necessary, an officer appointed by the Collector in this behalf (hereinafter referred to as the Presiding Officer) shall convene a meeting of the members of a Nyaya Panchayat for the election of Chairman of such Nyaya Panchayat within the period prescribed in sub section (6) of section 27-C.]

²[(2) Notice of the place, date and hour of such meeting shall be given in writing to each member not later than seven clear days before the date fixed for meeting :

Provided that no such notice shall be necessary and such meeting may be convened at any time and on any day and at any place in case all the members are present and consent for the same.]

Comments

The officer appointed by the collector shall preside over the meeting and shall not delegate his powers to any subordinate officer.

1. Substituted by Notification No. F. 4 (LJ) 25/14/41670, dated 26.7.61 published in Rajasthan Gazette, E. O. Part IV-C, dated 31-8-61.

1. Inserted by Notification No. F. 4 (LJ) 25 (14), dated 2-1 in Rajasthan Gazette, E. O. Part IV-C, dated 2-1

³[61. *Procedure to be observed.*—(1) At the meeting referred to in rule 60, the procedure laid down in rule 57 shall be followed, so far as may be, with the following variations:—

(a) The Officer presiding at the meeting shall give to every member of the Panchayat, who is present a voting slip and ask him to write the name of the candidate, whom he wants to be elected as a Chairman.

(b) Every member shall fill, fold and hand over the voting slip to the Officer presiding at the meeting who shall on receipt of all the slips count the votes and declare the candidate who has secured the largest number of votes to be duly elected:

Provided that in case of equality of votes the result shall be declared by drawing of lots in the manner which the presiding officer may think proper;

(c) The result shall soon be reported to the Collector and the officer-in-charge of Panchayats.]

(8) *Oath or affirmation.*

62. *Form of oath or affirmation.*—The oath or affirmation to be made under section 15 by Panch, whether elected, co-opted or appointed, or by a Sarpanch, whether elected or appointed or by a member of a Nyaya Panchayat shall be in the form set out in Schedule II to these Rules.

Comments

See comments to rule 52.

63. *Time and manner of making oath or affirmation.*—

(1) The oath or affirmation shall be made by a Panch, Sar-

3. Substituted by Notification No. F- 4 (LJ) 15 (14), 47670, dated 26-7-61 published in Rajasthan Gazette, E. O. Part IV-C, dated 31-8-61.

panch or member of a Nyaya Panchayat.¹[at any time after the declaration of his result but] within three months from the date of the notification of his name under section 14.

(2) Subject to the provision contained in sub-rule (1), such oath or affirmation may be made at any time after the declaration of the result.—

(i) before the Returning Officer, or

(ii) before the Tehsildar concerned or any officer appointed in this behalf by the officer-in charge of panchayats, or

(iii) before the ²[Dy. District Development officer], or

(iv) in the case of a panch, whether elected, co-opted or appointed, before the Sarpanch, or

(v) at any meeting of the Panchayat or Nyaya Panchayat and the forms of oaths or affirmations subscribed at the time of making them shall be sent to or retained in the office of the ²[Dy. District Development officer] for a period of four years upon the expiry of which they shall be destroyed.

Comments

The oath will be taken within three months of the date of the notification of the result under section 14. The date on which the notification is published in the Official Gazette shall not be counted in computing the period of three months. Further, the period will be counted according to Gregorian calendar.

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1. Inserted by Notification No. F. 4 (LJ) 25, (14) 70380, dated 23-11-60 published in Rajasthan Gazette, E. O. Part IV-C, dated 23-11-60.
 2. Substituted vide Notification No. F. 4/LJ/2/(8) 62 34769 dated 7-8-62, published in Rajasthan. Gazette, Part IV-C, dated 7-8-62.

If the result of election is published on the 13th of November 1964, the oath can be taken upto 14th January, 1965. Month here does not mean 30 days but will be computed according to the English callendar irrespective of the number of days in a month.

(9) *Retirement of members of Nyaya Panchayats.*

64. *When members of a Nyaya Panchayat to retire.*—(1) A member of a Nyaya Panchayat shall retire from his office—

(i) upon the exclusion from the Nyaya circle under sub-section (2) of section 27B of the Panchayat circle the Panchayat whereof elected him as such, or

(ii) when required to do so under rules 65 to 68 or under rule 69 or under rule 70, and the names of the members so retiring shall be notified by the ¹[Dy. District Development officer] in the Official Gazette.

(2) The Collector shall, every second year, determine the number of members of Nyaya Panchayat that shall retire upon the expiry of that year as provided in sub-section (7) of section 27C.

65. *Meeting for detemining members of Nyaya Panchayats to retire first.*—(1) Before the expiration of two years from the date of formation of a Nyaya Panchayat, such officer, not below the rank of a Tehsildar, as may be authorised by the ¹[Dy. District Development Officer] in this behalf shall convene a meeting of such Nyaya Panchayat on a date and time to be fixed by such officer for the purpose of determining the members of the Nyaya Panchayat who shall first retire as provided in sub-section (7) of section 27C.

(2) A notice of such meeting shall be sent to every member of the Nyaya Panchayat so as to reach him not later than the seventh day before the date fixed for the meeting.

1. Substituted by Notification No. 4/JL/2(8) 62 34769, dated 7-8-62 published in Rajasthan Gazette,

66. *Procedure at meeting*—(1) At such meeting the officer convening it shall preside.

(2) He shall prepare as many chits of blank paper as there are members of the Nyaya Panchayat including the Chairman and write before all such members the name of each of them separately on one of such chits.

(3) When the chits bearing the names of all such members have been prepared and initialled by the said officer they shall be folded up so as to conceal the names written thereon and then mixed up together and put in a vessel so that they may not be visible from outside.

(4) The vessel containing the chits shall be placed in the centre of the place where the meeting is held and a stranger shall be called upon to draw out one by one from the vessel, by thrusting his hand therein and without looking into the interior thereof, as many folded chits as there are members to retire, as determined under rule 64.

(5) The presiding officer shall take each chit so drawn out, unfold it and read out the name of the member written thereon and note his name in the proceeding drawn up under rule 67.

67. *Proceeding of meeting to be drawn up*.—(1) The presiding officer shall draw up a proceeding of the meeting, setting out therein clearly every thing done and every step taken and the names of the members whose names appear on the chits drawn out under rule 66.

(2) One copy each of the proceeding shall be transmitted to the Panchayat office, to the Nyaya Panchayat office, to the Collector and to the Officer-in-charge of panchayats.

68. *Retirement of members.*—The members of the Nyaya Panchayat whose names appear on the chits drawn under rule 65 shall retire from office upon the expiration of two years from the date of formation of the Nyaya Panchayat.

69. *Second retirement.*—(1) On the occasion of the second retirement of members of the Nyaya Panchayat, as provided in sub-section (7) of section 27C, a meeting shall be held, before the expiration of four years from the date of its formation, as provided in sub-rule (1) of rule 65.

(2) At this meeting, the members to be retired, as determined under rule 64, shall be selected out of such of the first members of the Nyaya Panchayat as did not retire on the first occasion.

(3) The provisions of rules 65 to 68 shall apply to such meeting and such retirement subject to the modifications set out in sub-rule (4).

(4) The modifications referred to in sub-rule (3) are—(a) that under sub-rule (2) of rule 66 the presiding officer shall prepare chits equivalent in number to the number of unretired members referred to in sub-rule (2), and (b) that the members selected for retirement at this meeting shall retire, as provided in rule 68, upon the expiration of four years from the date of formation of the Nyaya Panchayat.

70. *Third and subsequent retirements.*—(1) On the occasion of the third or any subsequent retirement, as provided in sub-section (7) of section 27C, no meeting shall be held.

(2) After the retirement referred to in rule 69, the members to be retired on the expiration of every second year as determined under rule 64, shall be those who have been longest in office as such members.

71. *Explanation as to period of office.*—The provisions or rules 69 and 70 shall be subject to the provision contained in

section 20 and a member elected under that section at a bye-election to fill up a vacancy caused by death, removal, resignation or otherwise then by retirement shall be deemed, for the purposes of these rules, to have been in office as from the date on which the person whose vacancy he has so filled up came into office, whether as a result of the first election of members for the Nyaya Panchayat or as a result of any subsequent election upon retirement under sub-section (7) of section 27C.

(10) *Prohibited acts and corrupt practices.*

72. *Panchayat servant not to canvass.*—A servant of the Panchayat or Nyaya Panchayat shall not canvass or otherwise interfere or in any way use his influence in an election.

73. *Election Officers prohibited from acts in furtherance of prospects of candidates*—No person who is a Returning Officer or a Polling Officer or an officer or clerk appointed by the Returning Officer to perform any duty in connection with an election shall, in the conduct and management of the election do any act in furtherance of the prospects of the election of any of the candidates.

74. *Secrecy of election to be maintained by Officers.*—No person who is entrusted with any duties in connection with an election under this chapter shall divulge, or wilfully allow or cause to be divulged, any information as to the candidate for whom any vote has been given in any particular ballot paper.

75. *Prohibited acts.*—(1) No person shall—

(i) alter or temper with the voters list or its copy or other documents in contravention of the rules contained in this chapter, or

(ii) deface, injure, disturb or
notice or other document of
any public office or elsewhere

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(iii) obstructs, or in any way interferes with, any officer, servant or person appointed or employed for the purposes of the Rules contained in this chapter, while in the performance of his duties, or

(iv) carry on his person, within a radius of 100 yards of the polling station, any arms or weapons of any kind, or

(v) use a ballot paper otherwise than for the purpose for which it is meant, or

(vi) convene or hold any public meeting or do any kind of propaganda work in support of his election within 100 yards of the polling station on the date on which a poll is to be taken, or

(vii) impersonate an elector.

(2) The use of any conveyance for the purpose of transporting electors from their residence or any other place to the polling station by candidates or at their expense is prohibited.

76. *Penalties.*—(1) Any person contravening the provisions of rule 72 or rule 73 or rule 74 shall, on conviction, be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) A person committing any of the acts prohibited by rule 75 shall, on conviction, be punishable with fine which may extend to one thousand rupees.

77. *Corrupt practices.*—The following shall be deemed to be corrupt practices for the purposes of an election under these rules, namely :—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or by any other person of any gratification to any

person whomsoever with the object, directly or indirectly, of inducing—

(a) a person to stand or not to stand as, or to withdraw from being a candidate or to retire from contest at an election; or

(b) an elector to vote or refrain from voting at an election; or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature, or

(ii) an elector for having voted or refrained from voting.

Explanation.—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratification or gratification estimable in money, and it includes all forms of of entertainment and all forms of employment for reward but it does not include the payment of any expenses bonafide incurred at, or for the purpose of any election.

(2) Undue influence, that is to say, a interference or attempt to interfere on the or of any other person, with the free vote :

Provided that—

(a) without prejudice to the provisions of this clause any such person who—

(i) threatens any candidate or person in whom a candidate has confidence with injury of any kind including ex-communication or of the community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the right of such candidate or elector to vote within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with the right to vote shall not be deemed to be interference within the meaning of this clause.

(3) The systematic appeal by a candidate or by any other person to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to religious symbols, or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election.

(4) The publication by a candidate or by any other person of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal from contest of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on behalf of the candidate for the conveyance of any elector (other than the candidate himself or any member of his family) to or from any polling station or place fixed for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint cost for the purpose

of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place shall not be deemed to be a corrupt practice under this clause.

Explanation:—In this clause the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The incurring or authorising by a candidate or by any other person of expenditure in contravention of the provision of any rule or order relating to election.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person any assistance (other than the giving of vote) for the furtherance of the prospects of the candidate's election from any person in the service of the Government ¹[or any local authority] and belonging to any of the following classes, namely :—

(a) gazetted officers;

(b) stipendiary judges and magistrates;

(c) members of the armed forces of the Union;

(d) members of the police force;

1. Inserted by Notification No. F. 4 (L) 25

published in Rajasthan Gazette, Extra.

18-10-60.

(e) excise officers;

(f) revenue officers including village accountants such as patwaries and the like but excluding other village officers; ¹[]

(g) such other class of persons in the service of the Government as may be notified;

²[(h) members of the Rajasthan Panchayat Samiti and Zila Parishad Service, Rajasthan Panchayat Samiti and Zila Parishad (Class IV) Service and persons placed on deputation under section 26 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, and

(i) employees of other local authorities].

*Explanation:—*The word “candidate” means for the purposes of this rule and rules 78 to 86, the person who stood for, or was nominated for, the election to which an election petition pertains.

Comments

Synopsis

1. Prohibited Acts & corrupt practices.

2. Corrupt practices—meaning of :—

(i) Bribery.

(ii) Undue Influence

3. Consequences of corrupt practices.

1. *Prohibited Acts and corrupt practices.*

Rule 75 deals with prohibited Acts and Rule 77 deals with corrupt practices. The difference between the two is that

1. Omitted by Notification No. F. 4 (LJ) 25 (14), 66004 dated 18-10-60 published in Rajasthan Gazette, Ex. ordy. Part IV-C, dated 18-10-60.

3. Inserted by item 6 *ibid.*

prohibited Acts are Offences under the election law and a penalty of imprisonment or fine or both is provided for such offences, while no such penal consequences follow corrupt practices, which can only result in the setting aside of an election on being proved. Prohibited Act can also be made a ground of an election petition and can result in the setting aside of an election, if it is proved that such an act materially affected the result of the election of a returned candidate.

2. *Corrupt practice, meaning of—*

Corrupt practice means an act which interferes with the free exercise of the electoral right of a citizen. A citizen has a right to vote or not to vote, to stand at an election or not to stand, to withdraw from being a candidate or continue to contest an election after having been validly nominated or to retire from the electoral contest. Corrupt practices are of two kinds (i) bribery and (ii) undue influence. It is proposed to deal with each of these in some detail in the following paragraphs:—

(1) *Bribery, what is ?* The definition of bribery is given in sub-rule (1) of this rule. According to this any person or a candidate who by a gift, offer or promise of any gratification directly or indirectly induces another person to exercise any of his electoral rights in a particular manner or gives a reward to any person for having exercised any of his electoral rights in accordance with the wishes of such person is said to have indulged in the corrupt practice of bribery. It is essential that any gift, offer, promise or reward should be made with the object of inducing another person to act in a particular manner while exercising his electoral rights. The essential ingredient of bribery is the intention of the person, which can be gathered from the act and the circumstances of the case. It is not necessary that actual payment of bribery should be proved. A mere offer which may not even be accepted by the person to whom it is made will constitute bribery.

urly it is not necessary that the bribed person may have acted in accordance with the wishes of the briber. The fact that the person bribed did not cast his vote in accordance with the wishes of the briber or did not accept the offer at all or that the bribed person was not qualified to vote will not save the case from falling within the definition of bribery. As is clear from the definition of bribery, it may be given or offered to any person and the question whether he is entitled to give his vote is irrelevant.

Again it is not necessary that actual payment of bribery should be proved. A mere offer made with the intention of inducing the elector to vote for a particular candidate will constitute the corrupt practice of bribery.

The fact that the amount offered is very small or that the act of bribery is a very trifling one will not prevent the case from being covered by the definition.

The following are some of the instances of bribery :—

(i) Donation given in charity is bribery if it is proved to have been given with a corrupt motive to induce the voters to give their votes to the donor (Amritsar and Sialkot, I.E.C.D. Vol. II, p. 94). Some times charitable gift may in reality be nothing more than a cloak to conceal the corrupt practice and the real object of the donor may be to get the votes. In such a case the gift will become bribery and the fact that it did not have the desired effect on the voters is not relevant. (Plymouth, 3 O'M, & H. 109). A promise by a candidate to construct a well for the village in case they voted for him and not for his opponent will amount to bribery. (Magan Lal Bagadi V. Hari Vishnu Kamath, 15 E.L.R. 205). In fact any donation made at the time of or on the eve of an election is open to the charge that its real object was to offer bribery to the voter. There fore

it is a question of fact in each case whether the amount given in charity constituted an election offence.

(ii) Payment made to a substitute to do the work of a voter is bribery. Similarly the payment of a day's wage to a worker when he comes to vote is bribery. A letter to a voter promising him to pay his railway expenses will be bribery.

(iii) Repayment of debt may also constitute bribery, in case it is made on the eve of elections and with the object of inducing the creditor to vote for the candidate.

(iv) Loans to a voter or a person likely to influence votes may become bribery. Similarly an offer for employment, whether temporary or permanent may become bribery.

(v) Payment of election expenses of a candidate who may withdraw as a result of an agreement is bribery, (Ahmed miya Sheromiya V. Chippa Ibrahim, 17 E.L.R. 218).

(vi) Corrupt entertaining of voters by giving them meat, drinks and taking them to pictures may be bribery if it is done to influence their votes.

The above instances would show that malafide intention is the gist of bribery. All the aforesaid instances are of corrupt motive and if such a motive is absent none of the aforesaid acts would amount to bribery. The following are some of the instances where owing to absence of corrupt motive certain acts were not held to be bribery :—

(i) Gifts to charity may not constitute bribery unless they are excessive. If small amounts are given amongst poor persons who are not voters the same amount to bribery. Similarly if the amount is given long time before the election on the ground of charity

will not become bribery. A candidate can make a promise to a class of persons of a locality that he would do his best to help them in retaining a mosque as a temple. An assurance to get land for Harijans for building houses is not. (Balwant Rai Tayal V. Bishan Swaroop. bribery, 17 E.L.R. 101).

(ii) Employing voters and workers on remuneration, or feeding the workers does not amount to bribery. Similary payments made to canvassers does not amount to bribery, if it is made to meet their expenses and are commensurate with the work done in the constituency. (Pyari Mohan Dass V. Durga Shanker Dass 14 E.L.R. 338).

(iii) Where a candidate was requested to withdraw with an assurance that he would be given a ticket in the next election, it is not bribery (Gokul Anand Praharaj V. Jogesh Chandra Rout 18 E. L. R. 76). Similarly in Mahipat Vs. G.K. Isarani, a candidate was made to withdraw from the electoral contest with an assurance that he would be got elected in the Nyaya Panchayat Elections. Such an assurance was not held to be corrupt practice of bribery by the Rajasthan High Court because it was not in the power of the assurer to get the withdrawing candidate elected in another election.

(2) *Undue influence*.—The other mode of corrupt practice is undue influence, which consists in giving a threat of injury, physical or otherwise (social ostracism, ex-communication or expulsion from any caste or community) to a candidate, his agent or to an elector to vote in a particular manner and thereby interfering with the free exercise of his right to vote. Another form of undue influence is by inducing a candidate or an elector to believe that he or any person in whom he is interested would become an object of divine displeasure, if he did not vote in a particular manner. Besides, a systematic appeal

by a candidate or by any other person to voters to vote for a particular candidate on grounds of caste, race, community or religion, or the use of religious or national symbols will constitute the corrupt practice of undue influence. Again the publication by a candidate or by another person of any false statement in relation to the personal character of a candidate or in relation to the candidature or withdrawal from contest of any candidate calculated to prejudice the prospects of his election is a corrupt practice of undue influence. The hiring or procuring of any vehicle or vessel for the conveyance of electors is also a corrupt practice. Obtaining assistance of Government servant to further the prospects of any candidate is another form of corrupt practice. The following are some of the instances of corrupt practice of undue influence :—

(i) Taking of a number of Goondas to the Polling Station with the object of intimidating voters was held to be a case of undue influence. A mere threat or attempt to use force to exercise undue influence or to intimidate the voters is enough (Oldham, 1 O'M. & H. 162). The fact that the threat did not work will not save an act from becoming undue influence. (Northallerton, 1 O'M. & H. 173). Threat by a creditor to sue his debtor or a by threat by a customer to bycott a shop is corrupt practice.

(ii) Telling Muslim voters that it would be Haram to vote for another candidate is covered by the definition. (Amritsar City case I.E.C.D., Vol. II p. 117). The statement that a candidate, Hindu by caste "has no objection to the slaughter of cows and voters voting for him would go to "hell" amounts to spiritual undue influence. The use of photo of Mahatma Gandhi or of

Singh (Sen & Poddar 854). Similary false propaganda that a particular candidate has retired from election is a corrupt practice, but fair estimates of electoral result may not be corrupt practice. To call a person 'gaddar' of a party is not corrupt practice, because it does not relate to personal conduct of a man.

(iv) To convey voters to the polling station is corrupt practice but to take one's family is not so. Carrying of election agents and workers to polling station is not a corrupt practice.

(v) In all election the Government fixes some limit for election expenses which should not be exceeded. All the expenses incurred from the date of the notification of election programme to the date of the declaration of result will be taken into account in calculating election expenses. The expenses incurred for a candidate by a political party or institution will not be included in his election expenses. Payment made to Congress party to secure a ticket is an election expense (11 E.L.R. 208).

(vi) A Government servant can not do propaganda for a candidate or assist him to secure votes by his influence. This will be corrupt practice. A Government servant can become a proposer or seconder of a candidate but he can not become an election agent (Satydeo Bhusri V. Padamdeo 1955 I.E.C. 549). However, if the object is to influence voters, the case may be different (Rajkishan Bose V. Vinod Kunango 9 E.L.R. 294).

The underlying principles which makes an act a corrupt practice of undue influence is that the act directly or indirectly interferes with the free exercise of an elector's right to vote according to his free will. The method of interference may be such compulsion or inducement as would leave no free will to the voter in the exercise of his choice. But all influence cannot, however, be termed as undue. The law cannot strike at

the existence of influence. It cannot take away from a man who has property, or can give employment, the influence he has over those whom he can benefit, it is the abuse of influence which is prohibited under the law (Winson, 10'M & H. 2 Lichfield. 1 O'M & H, 25). As in the case of bribery malafide intention is the crux of undue influence also & will have to be proved before any act is held to be a corrupt practice.

3. *Consequence of corrupt practice:—*

The election of a returned candidate can be set aside if it is proved that corrupt practice was committed by him or by any person with his consent or connivance. If the corrupt practice is proved to have been committed in the interest of any candidate by a person other than the candidate then too his election can be set aside if it is proved that the result of the election was materially affected in so far as it concerns the returned candidate.

(11) *Election disputes*

78. *Manner of challenging an election.*—The election or co-option of any of a panchayat or the election of any or Up-Sarpanch of a Panchayat or as the case may be of a Nyaya Panchayat may be called in question by a petition to the Munsif, or, where there is no Munsif, to the Civil Judge, within whose jurisdiction the Panchayat or the Nyaya Panchayat is situated, within thirty days from the date of such election or co-option on any one or more of the following grounds :—

candidate or by any other person with the consent or connivance of the candidate, or

(c) that any nomination was improperly rejected, or

(d) that the result of the election or co-option, as the case may be, in so far as it concerns the returned candidate was materially affected--

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interest of the candidate by a person other than that candidate or by a person acting with the consent or connivance of such candidate, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which was void, or

(iv) by any non-compliance with the provisions of the Act or of these Rules, or

(e) that in fact the petitioner or some other candidate received a majority of the valid votes, or

(f) that, but for the votes obtained by the returned candidate by corrupt practices, the petitioner or some other candidate would have obtained a majority of the valid votes.

Comments

Election Disputes:—

Election disputes are dealt with in the rules 78 to 86. All matters of importance are, however, discussed in the commentary of this rule to give a comprehensive idea of important issues involved in the matter.

1. Election petition proper remedy to challenge an Election:—

No writ petition or suit lies to question an election and only an election petition should be filed to challenge the election of a candidate (1952 S. C. 64-54 S. C. 520). The process of election begins when a nomination paper is filed before the returning officer and ends when the Returning Officer declares this result. Any violation of rules made in the conduct of election can be made a ground for challenging the election of a returned candidate, if it is shown that such violation materially affected the result of election of the returned candidate.

2. Who can file an election petition:—

According to the following rule (79) an election petition can be filed by any elector (voter) or a candidate for the election or co-option as the case may be. "Voter" means a person entitled to vote at an election or co-option, whether he has voted or not.

3. Grounds for filing election petition:—

The election of a returned candidate can be challenged on any of the grounds stated in clauses (a) to (d) of this rule. An election petition can be filed, for the violation of any rules of election or co-option if it is shown that the result of election in so far as it related to the returned candidate was materially affected by such violation.

Following are some of which can be made grounds of

(i) holding of elec
for the same.

(ii) Non-publication
14 (1957 R. L. W. 315).

(iii) Change of rule
(1958 R. L. W. 331).

(iv) inclusion of voters of another constituency or ward.

(v) Non-acceptance of valid votes.

4. Limitation:—

An election petition under these rules should be filed by the petitioner within 30 days of the declaration of the result and in calculating this period, the date on which the result was declared will be excluded. Further if the last day on which an election petition is to be filed happens to be a holiday then the petition can be filed on the next working day.

5. Petition should contain all grounds of attack:—

The petition can be filed on one or more grounds mentioned in this rule. The facts alleged in the petition must be supported by full particulars. A new ground, if not taken in the petition, shall not be allowed to be added (Mast Ram V. Iqbal Singh 12 E. L. R. 34). All material facts should be stated in a concise form in a election petition i.e. in case of allegation of corrupt practice, the names of the polls committing corrupt practice and the date and place of commission thereof should be given. An affidavit must also be filed in support of the allegations.

6. Verification:—

According to rule 80 of these rules, an election petition has to be verified and signed in the manner prescribed for the verification of pleadings under the Civil Procedure Code, 1908.

7. Parties to the petition:—

The person whose election is challenged shall be made a party to the petition, but if the relief claimed is that any other candidate should be declared to be elected in place of such person, then all the un-successful candidates who have got more votes than such candidate should also be made respondents in the petition.

8. *Election petition should not be dismissed:—*

An election petition should not be dismissed in default because the interest of all the electors at large is involved in the decision of a petition (1961 RLW 243).

9. *Election Tribunal not to grant stay:—*

An election tribunal will not grant stay or injunction order restraining the elected representatives from functioning as such, as they have constitutional right to work in their elective offices until dislodged by the decision of a tribunal¹. The newly added proviso to rule 84 expressly prohibits the issue of a stay order by an Election Tribunal.

79. *Who may present election petition.*—(1) A petition under rule 78 may be presented by an elector or by any candidate at such election or co-option, as the case may be.

Explanation I.—“elector” means the person who was entitled to vote at the election or co-option to which the petition relates, whether he has voted at such election or co-option or not.

Explanation II.—The petition shall be deemed to have been duly presented if it is delivered by the person making the petition or by a person authorised in writing in this behalf by the person making the petition.

(2) No petition shall be deemed to have been presented under these rules unless the petitioner deposit a sum of Rs. 50 along with the petition by way of security for the costs of the opposite party.

80. *Contents and verification of election petition.*—(1) The petition shall contain a concise statement of the material facts on which the petitioner relies and shall be signed by ~~the~~

1. Mool Chand Zhanjri V. Collector Nagaur. 1962 R.

petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908), for the verification of pleadings.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified by him in the same manner as the petition.

S1. *Parties to the petition.*—The person whose election or co-option, as the case may be, is challenged, and, where the petition claims that any other candidate shall be declared as elected in place of such person, every unsuccessful candidate who has polled more votes than such candidate, shall be made a respondent to the petition.

S2. *Appearances and acts.*—Any appearance, application or act before the Munsif or the Civil Judge, as the case may be, may be made or done by the party in person or by a pleader duly appointed to act on his behalf.

S3. *Hearing of petition.*—The procedure provided in the Code of Civil Procedure, 1908 (Central Act V of 1908), in regard to suits, shall, in so far as it can be made applicable, be followed in the hearing of the petition :

Provided that—

(a) any two or more petitions relating to the election or co-option of the same person shall be heard together,

(b) the Munsif or the Civil Judge, as the case may be, shall not be required to record evidence in full but shall only make a memorandum thereof sufficient in his opinion for the purpose of deciding the petition,

(c) the petitioner may, at any stage of the proceeding be asked to give further security for the payment of the costs likely to be incurred by any respondent,

(d) the Munsif, or the Civil Judge, as the case may be, shall only be bound to require the production of, or to receive, so much evidence, oral or documentary, as he considers necessary, and

(e) no witness or other person shall be required to state for whom he has voted at an election or co-option.

84. *Powers of court hearing petition.*—The Munsif or the Civil Judge, as the case may be, hearing a petition shall have the same powers and privileges as a judge of a Civil Court when trying a suit and may for the purpose of serving any notice or issuing any process or doing any other thing, employ an officer, clerk or peon attached to his court :

¹[Provided that no injunction or stay order shall be issued restraining the person, whose election or co-option is questioned, from exercising the powers and performing the duties under the Act and rules made thereunder.]

85. *Order of Court.*—(1) Upon the conclusion of the hearing, the Munsif or the Civil Judge shall make an order—

(a) dismissing the petition, or

(b) declaring the election of all or any of the returned candidates to be void, or

(c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.

(2) The Munsif or the Civil Judge, as the case may be, after pronouncing the order made under sub-rule (1), shall send a copy thereof to the Collector for taking further necessary action in pursuance thereof.

1. Inserted by Notification No. F. 4 (LJ) pts/60-A, dated 23-12-60 published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 23-12-60.

Decision of election petition:—

An election tribunal can dismiss a petition or accept it and declare the result of a returned candidate or candidates as null and void or declare the election of all or any of the returned candidates to be valid and the petition or any other candidate to have been duly elected. But the last order can be passed only when it is held that (i) the petitioner or some other candidate in fact received majority of valid votes or that (ii) but for the votes obtained by the retired candidate by corrupt practice, the petitioner or some other candidate would have obtained a majority of valid votes. Thus clause (c) of this rule is applicable only in cases covered by clauses (e) & (f) of rule 78.

Further, in counting the votes, the votes polled for a candidate whose nomination paper had been wrongly accepted but later on found to have been done so, will be deemed to be valid votes and will be counted as such, as such votes cannot be deemed to have been thrown away by the electors.¹

86. *Execution of order as to costs.*—Any order with regard to costs passed by the Munsif or the Civil Judge shall be executed by him on application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money made by himself in a suit.

²[CHAPTER III*Miscellaneous*

³[87. *Manner of serving the order of requisition of vehicles etc.*—The order or requisition under sub-section (2) of section 83-A shall be served—

-
1. Ganga Ram V. Sheo Karan 1962 I.L.R. (12 Raj.) 800; A.I.R. 1960 S. C.131; Ramchandra V. Devi Raj Singh and others 1963 I.L.R. (14-Raj.)372.
 2. Inserted by Notification No. F. 4(LJ) pts (25) (14), dated 24-11-60 published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 24-11-60.
 3. Inserted by Ibid.

(a) Where the person to whom such order is addressed is a corporation or firm, in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908); and

(b) Where the person to whom such order is addressed is an individual—

(i) personally by delivering or tendering the order; or

(ii) by registered post, or

(iii) if the person cannot be found, by leaving an authentic copy of the order with any adult member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried personally worked for gain.]

88. ¹[*Time for application.*—The time with owner of a vehicle, vessel or animal who is aggrieved by the amount of compensation determined under sub-section 83-B, may make an application to the State C in this behalf shall be fourteen days from the date of intimation of determination of the amount of such compensation.]

²[89.] *Supersession of existing rules.*—On these coming into force, the Rajasthan Panchayat Election 1954, shall in respect of the matters covered by these rules stand superseded.

-
1. Inserted by notification No. F. 4 (LJ) pts (25) (14) dated 24-11-60 published in Rajasthan Gazette, Part IV-C Extraordinary, dated 24-11-60.
 2. Renumbered by Notification No. F. 4(LJ) (15) (14), dated 24-11-60 published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 24-11-60.

¹[90. *General provisions.*—(1) Save as otherwise provided in the Act or in these Rules, no act done or proceeding taken under or with reference to the foregoing rules shall be called in question by means of suit or otherwise in a court of law.

(2) The Collector may direct the Returning officer to postpone any election to any Panchayat if it is considered necessary and expedient in public interest so to do.

(3) Any public building within the Panchayat circle selected by the Returning Officer or the Collector, as the case may be, for the location of polling station for the purpose of conducting elections shall be placed at his disposal with effect from such day as the Returning Officer or the Collector, as the case may be, direct.

(4) If the Collector or the Returning Officer considers it necessary that educational institutions within the Panchayat circle shall remain closed on the day of poll, he may make a request to that effect in writing to the Panchayat Samiti or the Department concerned, who shall declare such day as Holiday for the educational institutions within the Panchayat Circle.

(5) All the expenses incurred in holding an election or bye-election under these rules shall be borne by the panchayat concerned. In case any panchayat fails to pay the expenses incurred as such, the Collector may, by order in writing, direct the panchayat concerned to pay the said amount within such time as may be specified in the order, and take such other action for the recovery of the amount, as he deems necessary.]

FORM I

(See rule 16)

Election to/.....Panchayat.....

.....Panchayat Samiti.....District.

(To be filled by the Candidate)

I hereby give notice that I propose myself....as
a candidate for election as Panch/Sarpanch to the above
Panchayat from ward No.....

1. Full name.....

¹[2. Sex of the Candidate.....]3. Caste of the Candidate. (to be filled by persons
belonging to scheduled caste/tribe only)²[4] Number in the list of voters.....²[5] Name of the candidate's father/husband.....

I, further declare that—

(1) I am qualified to be a
provisions of the Rajasthan Panchay(2) I am not subject to any c
fied in section 11 of the said Act.³[(3) I/do not/belong to the S
Tribes.]

Date.....

Place.....

1. Added by r

published

dated 7-11-

2. Re-number

3. Inserted by

18-10-50, ru

IV-C, C&M

(To be filled by the Returning Officer)

S. No. of the ward from which the candidate proposes to seek election.....

S. No. of the nomination paper for such ward/seat

This nomination was presented to me at.....
(hrs.).....on.....(date) by Shri/Smt.....
.....(candidate).

Decision accepting or rejecting the nomination paper.

I have examined the nomination in accordance with the provisions of these rules and decide as follows:—

Date..... Returning Officer

RECEIPT FOR NOMINATION PAPER

S. No. of the ward/¹{name of seat} from which the candidate proposes to seek election

S. No. of nomination paper for such ward/seat.....

The nomination paper ofa candidate for election as Panch/Sarpanch was delivered to me at.....
(hrs.) on.....(date) by Shri.....accompanied by Shri.....as identifier.

The nomination paper will be taken up for scrutiny at(hrs) on.....(date) at(place)

Date..... Returning Officer,

Place..... Panchayat Election

1. Inserted by Notification No F. 4 (LJ) 25/14(14), dated 28-11-60 published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 28-11-60.

[FORM II]

(See rule 20)

List of validly nominated candidates whose nomination papers have been accepted and have not been withdrawn.

Election to the.....Panchayat.....
 Panchayat Samiti.....District.....
 Date of election.....
 To be filled in for the seats of Panchas. To be filled in for the seat of Sarpanch.

S.No. of the Ward	S.No. and name of the candidate with address.	Distinctive symbol allotted.	S.No. and name of the candidate with address.	Distinctive symbol allotted.
-------------------	---	------------------------------	---	------------------------------

Date.....

Place.....

Signature of the Returning
 Officer

1. Substituted by Notification No. F.I. (i) (i) I/Elce./Dir./63, dated 30-10-64, published in Rajasthan Gazette, Part IV-C Extraordinary, dated 7-11-64

[FROM III

List of Tendered Votes.

(See rule 32A)

Election to the.....Panchayat.

S. No. of ward	S.No and Name of Elector.	Address of Elector	S. No. of Tendered ballot Paper.	S. No. of ballot paper issued to the person who has already Voted.	Signature or thumb impression of person tendering Vote.
1.	2.	3.	4.	5.	6.

Date.....

Signature of Returning officer.

1. Substituted by notification No. F.I. (i) (i) I/Elec./Dir./63 dated 30-10-64, published in Rajasthan Gazette, Part IV-C Extraordinary dated 7-11-64,

[FORM IV]

(See Ru

Return showing the resu
sult of Pancha

Panchayat.....

Panchayat Samiti.....

District.....

Date of election.....

S. No. of the ward	Name of the candidates dec- lared unopposed under Rule 20 (2)	Name of the candidates for whom valid votes have been cast	Particulars of the candidates mentioned in columns (2) and (3)
-----------------------	--	--	--

(1)	(2)	(3)	(4)
-----	-----	-----	-----

Address	Caste	Educational	Age	Occu- pation	Whether
		Standard whether illiterate below, middle or above middle			held office of Panch or Sarpanch previously
(a)	(b)	(c)	(d)	(e)	(f)

FORM VI

(See Rule 52)

Nomination Paper

Co-option to.....Panchayat....Panchayat Samiti
District.

(To be filled by the proposer)

I hereby nominate Shri/Smt.....as a
 candidate for co-option as panch to the above Panchayat:—

- (1) Name of candidate's father/husband.
- (3) Sex of the candidate.
- (4) Number of the candidate in the list of voters.

.....
 Signature of the proposer.

(To be filled by the candidate)

I, the above named candidate, assent to the nomination
 and hereby declare that—

- (i) I am qualified to be a Panch under the provisions of
 the Rajasthan Panchayat Act. 1953, and
- (ii) I am not subject to any of the disqualification speci-
 fied in sec. 11 of the said Act.

Date.....

Place..... Signature of the candidate.

*(To be filled by the Secretary of the Panchayat or the
 Sarpanch or the Officer appointed by the Collector)*

S. No. of the nomination paper.....

This nomination was presented to me at.....(hrs.)
on.....(date) by Shri/Smt.....

I hereby declare that to the best of my knowledge and belief :—

1. that I am qualified to be registered in State Assembly Electoral Roll relating to the area comprised in the ward mentioned above.
 2. that my age on the 1st day of January last was..... years..... months.
 3. that my name has not been included in the voters list for any other ward in this Panchayat Circle.
- OR
- that my name has been included at serial No..... of the voters list of ward No..... and request that the same may be excluded from the said list.

Signature or thumb impression of claimant.

FORM VIII

[See rule 8 (3)]

Objection to inclusion of name

To

The Collector,

.....

Sir,

I object to the inclusion of the name of.....

S. No..... of the voters list of Ward No.....

of Panchayat Circle..... for the following

reason (s) :—

I hereby declare that the facts mentioned above are true to the best of my knowledge and belief.

My name has been included in the voters list of the said Ward at serial number..... as follows:—

Name in full.....

Father's/Husband's/Mother's Name.....

Signature/thumb impression of objector.

Date.....

(Full Postal Address).....

Decision accepting or rejecting the nomination paper.

I have examined the nomination in accordance with the provision of these rules and decide as follows:—

Date..... Sarpanch/Officer appointed by the Collector.

Note:—This form may be used for the election of the members of the Nyaya Panchayat and the Chairman thereof and for the election of an Up-sarpanch with such variations as may be necessary.

[FORM VII.

(See Rule 8 (2))

Claim Application for inclusion of name.

To

The Collector,

Sir,

I request my name be included in the voters list of ward No. _____ of the Panchayat Circle _____. The particulars of my place of residence are :—

Name.	House Number and Name of Mohalla.	Father's/Husband's/ Mother's Name.
1.	2.	3.

1. Added by Notification No, F. I. (i) (i) ¹[Elec./Dir./63 dated 30-10-64, published in Rajasthan Gazette, part IV—C Extraordinary, dated 7-11-64.

[FORM IX

[(See rule 8 (d))]

Objection to particulars in an entry.

To

The Collector,

Sir,

I submit that the entry relating to myself which appears at serial number.....in the voters list of ward No.....of Panchayat Circle.....as "....." is not correct. It should be corrected to read as follows :—

"....."

Place.....

Date.....

*Signature or thumb impression
of the Elector.*

The following schedule shall be Substituted in place of the existing schedule.

[SCHEDULE I

List of Symbols

1. Horse.
2. Bicycle.
3. Creasent Moon.
4. Elephant.
5. Lion.
6. Bus.

7. Railway Engine.
8. Two Leaves.
9. Scales.
10. Flower.
11. Sheep.
12. Cart.
13. Sparrow.
14. Watch.
15. Pot.
16. Spade.
17. Umbrella.
18. Camel.

SCHEDULE II

(See rule 69)

Form of Oath.

I.....having become a Panch/Sar-
panch/member of the Panchayat/Nyaya Panchayat Swear in
the name of God/solemnly affirm that I will bear true faith
and allegiance to the Constitution of India as by law established
and that I will faithfully discharge the duty upon which I am
about to enter.

By Order of the Governor-
G. K. BHANOT.
Dy Secretary to Government

Section IV

The Rajasthan Panchayat Act, 1953.
(Provisions pertaining to Elections)

The Rajasthan Panchayat Act, 1953

(Provisions pertaining to Elections)

CHAPTER II

Establishment and Constitution of Panchayats

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CHAPTER IV

[Nyaya Panchayats]

Constitution

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The Rajasthan Panchayat Act, 1953

CHAPTER II

Establishment and Constitution of Panchayats.

3. *Establishment of Panchayats.*—¹[(1)] The State Government may, by notification in the ²[Official Gazette], establish a Panchayat for a village ³[or a part of a village] or a group of villages not included within the limits of a Municipality.

¹[(2) The State Government may by like notification :—

- (a) establish a Panchayat for the whole or a part of any area included within the limits of a municipality, or
- (b) include any such area or part in any Panchayat circle :

Provided that, in doing so, it shall not be necessary for the State Government to observe and follow :—

- (i) the procedure laid down in the law governing such municipality for declaring that the whole or a part of the area thereof shall cease to be a municipality, or
- (ii) the procedure laid down in section 86 for the inclusion of any area in a Panchayat circle.

1. Renumbered & inserted by Section 4 (ii) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 9-9-59.

2. Substituted by Section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extra, Part IV-A dated 13-8-57.

3. Inserted by Section 3 of Rajasthan Act No. 19 of 1957, published in Rajasthan Gazette, Extra, Part IV-A, dated 13-8-57.

(3) Upon the establishment of a Panchayat under clause (a) of sub-section (2) for any municipal area or part thereof :—

(a) such area or part shall, for the purposes of this Act, be deemed to be a Panchayat circle;

(b) the municipal board established therein shall stand converted into a Panchayat for such Panchayat circle;

(c) until fresh elections are held under this Act :—

(i) the Chairman, Vice-chairman and all the members of the said municipal board shall, in case a Panchayat is so established for the whole of such municipal area be deemed respectively to be the Sarpanch, Up-Sarpanch and Panchas of such Panchayat, or

(ii) if a Panchayat is so established for a part only of the municipal area, the members of the said municipal board, representing such part, shall be deemed to be the Panchas of such Panchayat and the Sarpanch and Up-Sarpanch thereof shall be elected by such members from amongst themselves,

(d) the whole of the assets vesting in, and of the liabilities subsisting against the said municipal board, or, in case a Panchayat is so established for a part only of the municipal area, such portion of the said assets and liabilities as the State Government may direct, shall devolve on the Panchayat so established,

(e) until new rules and bye-laws are framed under this Act, the rules and bye-laws applicable to the said municipal board shall, in so far as they are not inconsistent with or repugnant to the provisions of

this Act or the rules made thereunder, apply to the Panchayat so established as if they had been duly made by or for such Panchayat, and

- (f) the Panchayat so established shall continue to levy such of the taxes lawfully imposed by the said municipal board as a Panchayat has the power to impose under this Act as if those taxes had been duly imposed under this Act, by the Panchayat so established.

(4) Upon the inclusion of any municipal area in a Panchayat circle under clause (b) of sub-section (2) :—

- (a) the consequences mentioned in sub-section (2) of section 86 shall ensue,
- (b) the municipal board shall cease to function therein,
- (c) the Panchayat of that Panchayat circle shall commence to function therein,
- (d) the members of the said municipal board representing the area so included shall, until fresh elections are held, be the additional Panchas of the said Panchayat, and
- (e) the provision contained in clause (d) of sub-section (3) shall apply.

(5) For the purpose of facilitating the establishment of a Panchayat, or the inclusion of any area in a Panchayat circle under sub-section (2), the State Government may, by order, give such directions as may appear to it to be necessary.

[*Constitution of Panchayat*—(1) A Panchayat shall consist of—

- (a) a sarpanch;

1. Substituted by sec. 2 of the Raj. Act, No. 32 published in the Rajasthan Gazette, Extraordinary Part IV A, dated 3rd Dec, 1964.

- (b) such number of panchas, not being less than five or more than twenty as the State Government may determine, elected from amongst the qualified voters of the Panchayat ;
- (c) panchas co opted under section 9 ; and
- (d) presidents of all the service co-operative societies in the panchayat circle certified in the prescribed manner, as holding office as such who shall, so long as they continue to be such presidents, be associate members of the panchayat

Explanation:—“Service co-operative society” for the purposes of this sub-section means a society formed with the object of obtaining for its members the credit, goods or services required by them, registered or deemed to have been registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act, 4 of 1953).

(2) An associate member of the panchayat shall have the right to speak in, or otherwise to take part in the proceedings of, the panchayat and of any committee of which he may be elected a member, but he shall not have a right to vote:

Provided that an associated member shall have a right to vote in proceedings relating to such matters of production programme as may be prescribed.

(3) If any question arises as to whether any member has ceased to be a president of any service co-operative society in the panchayat circle, the question shall be referred for the decision of the prescribed authority and his decision shall be final.]

COMMENTS

CONSTITUTION OF PANCHAYATS

Section 4 of the Rajasthan Panchayat Act, 1953 has been materially amended by this Act, No. 32 of 1964. According

to the amended provisions, a Panchayat shall consist of the following members namely :—

- (a) A Sarpanch directly elected by the voters of the Panchayat circle.
- (b) Such number of Panchas, not being less than 5 or more than 20 as the Government may determine, elected from amongst the voters of the Panchayat.
- (c) Coopted Panchas: 2 women; 1 member of scheduled caste and 1 member of scheduled tribe (as at present).
- (d) Associate members: Presidents of all Service Cooperative Societies in the Panchayat Circle.

There was no provision in the Act, formerly for association of representatives of the Cooperative Societies. The Act now provides such a representation at all levels of three tiers of the Panchayati Raj. The associate members i. e. Presidents of Service Cooperatives shall have a right to speak in or otherwise to take part in the proceedings of the Panchayat and its committees of which they may be elected members, but they shall have very limited voting rights i. e. only in respect of the proceedings relating to such matters of production programmes as may be prescribed by the rules. They shall not be entitled to be elected as Up-sarpanch.

The meeting for co-option of members in the Panchayat shall be held on such day before the first meeting of the Panchayat as the Collector or any officer appointed by him in this behalf may fix. If however some Panchayat fail to complete cooptions, the election of Pradhan shall not wait or be invalid inspite of such vacancy.

Under the existing provisions a Sarpanch does not have voting rights in the cooption of members and the election of Up-sarpanch. According to the amended provisions, the Sarpanch has been given voting rights in both these matte

5. *Wards*.—The ¹[Collector] ⁵[or such subordinate gazetted officer of the Govt as the collector may authorise in this behalf] may divide each Panchayat Circle into such number of wards as may be convenient for the purpose of election and fix the number of Panchas to be elected from each such ward.

6. *Election of Panchas*.—The election of the Panchas shall be held and conducted in the prescribed manner.

7. *Term of office*.—²[(1)] The term of a Panchayat shall be for a period of three years computed ⁶[from such date as may be notified by State Govt. in this behalf.]

Provided that the State Government may by notification in the ³[Official Gazette], extend from time to time the said term by a period not exceeding one year in the aggregate :

⁴[× × × ×]

[(2) Notwithstanding anything contained in sub-section (1), the term of Panchayats as existing on the date of the passing

1. Substituted by Section 4 (iii) of Rajasthan Act No 37 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 9-9-59.

(

3. Substituted by Section 4 of Rajasthan Act No. 27 of 1957 published in Rajasthan Gazette, Extra, Part IV-A, dated 13-8-57.

4. Omitted by Sec. 3(a) of Rajasthan Act No. 32 of 1964.

5. Inserted and shall be deemed to have been inserted from the 9th day of Sept. 1959 by Section 2 (1) of Rajasthan Act No. of 1961 published in Rajasthan Gazette, Part IV-A, Extra, dated 4-4-1961.

6. Substituted and shall be deemed to have been substituted from 28th day of Oct 1960 by Section 3 (a)-ibid,

of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, ¹[or established under Sub-Section (2) of Section 3 before the 31st October, 1960] shall, ³[extend up to the 31st day of January, 1961 ³[or such earlier date as may be notified by State Govt. in this behalf.]

²[(2) x x x x]

⁴[(3) Notwithstanding anything contained in sub-section (1), the term of the panchayats as existing on the date of the commencement of the Rajasthan Panchayat Laws (Amendment) Act, 1964, shall be extended up to the 31st day of March, 1965 or such earlier date as may be notified by the State Government in this behalf.]

¹[7A. *Continuance in office until new elections.*—Notwithstanding anything contained in section 7, the Sarpanch and Panchas of a panchayat, of which the term of office has expired, shall continue to hold office till the day immediately preceding the date of first meeting of the Panchayat as a result of the periodical general election :

Provided that the provision contained in this section shall not apply if no steps shall have been taken before the expiry of the term of office of a Panchayat for holding fresh general elections.]

8. *Appointment of Panchas on failure to elect.*—If on the date fixed for election, the electors of a Panchayat Circle of of any Ward thereof fail to elect the requisite number of Panchas, the ⁵[Officer in-charge of Panchayats] shall appoint a person or persons as prescribed to complete such number and every person so appointed shall be deemed to be a duly elected Panch :

-
1. Inserted and shall be deemed always to have been instated by section 4 (b) of Rajasthan Act, No. 25 of 1960, published in Rajasthan Gazette Extra, Part IV-A, dated 24-8-1960.
 2. Omitted with effect from 28th oct. 60, by the Raj. Panchayat (Amendment) Act 61.
 3. Inserted and shall be deemed to have been inserted by section [3(b) ii]
 4. Inserted by sect [3 (b) of the Raj. Act No. 32 of 1964, published in the Raj. Gazette Extra part IV-A, dated 3rd Dec., 1964.
 5. Inserted by Section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 13-6-59.

Provided that the person so appointed shall not hold office for a period exceeding six months, unless duly elected.

¹[SA. *Continuance and validation of certain panchayats.*—

(1) For the removal of doubt it is hereby declared that every panchayat, which commenced to function after the 9th day of September, 1959, otherwise than under sub-sections (2) to (4) of section 3, and of which the area of jurisdiction has not thereafter been altered under section 86 or section 86A, is not covered by the provision contained in sub-section (2) of section 7 and shall continue so to function as such for the full term of office as determinable under sub-section (1) of section 7.

(2) If to any such panchayat as is referred to in sub-section (1) an additional panch could be but was not appointed under section 9 in its unamended form, as it stood before its amendment by section 6 of the Rajasthan Panchayat (Amendment) Act, 1960 (Rajasthan Act 25 of 1960) then, notwithstanding the lack of the appointment of an additional panch thereto, such panchayat shall be deemed to have been validly formed and all acts done, and orders passed, by such panchayat up to the 31st day of January, 1961, shall be deemed to have been done and passed lawfully and validly :

Provided that, by the said 31st day of January, 1961 additional panchas to the said panchayat shall be co-opted for the remaining term of its office under and in accordance with the provisions contained in section 9 as amended by the aforesaid amendment Act of 1960 and the rules made thereunder.]

²[9. *Co-option of certain Panchas.*—(1) As soon as may be after the election of Panchas and Sarpanch for a Panchayat, there shall be co-opted in the prescribed manner by the panchas

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1. Inserted and be deemed to have been inserted from the 1st day of December 1960 by Section 4 of Rajasthan Act No. 10 of 1961, published in Rajasthan Gazette, Part IV-A, Extra, dated 4-4-1961.
 2. Substituted by Section 6 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-8-1960.

so elected from amongst persons qualified under this Act to be elected as panchas—

(i) two women, if no woman has been elected to the Panchayat,

(ii) one woman if only one woman has been so elected,

(iii) one person belonging to the scheduled castes, if no such person has been elected to the Panchayat, and

(iv) one person belonging to the scheduled tribes, if no such person has been so elected and the population of such tribes in the Panchayat Circle exceeds five per cent of the total population thereof.

(2) Within fifteen days after his election the Sarpanch shall convene, under due notice in the prescribed manner, a special meeting of the newly elected Panchas to co-opt persons referred to in sub-section (1) :

Provided that if the Sarpanch does not convene such special meeting within the aforesaid time, any officer appointed by the Collector in this behalf shall likewise convene such special meeting.

(3) If, within one month of the first meeting of the Panchayat convened for such co-option, the Panchayat fails to co-opt the requisite number of persons, the Collector shall nominate such person or persons and every person so nominated shall be deemed to have been duly co-opted.

(4) The persons so co-opted or deemed to be co-opted shall be additional Panchas of the Panchayat and shall in all respects and for all purposes be deemed to be duly elected Panchas.]

¹[9A. *Appointment of Administrator in certain cases.*—

(1) Whenever :—

(a) a new Panchayat is established under Sub-Section (1) of Section 3, or

(b) the election of all the Panchas, with or without the Sarpanch, has been declared void, or

(c) such election and the proceedings subsequent thereto have been stayed by an order of a competent court, or

(d) the term of office of an existing Panchayat has expired before the finalisation of such election and proceedings,

the State Government shall, by notification in the Official Gazette, appoint an Administrator for such period as may be specified in the notification.

(2) The State Government may at any time, by notification in the Official Gazette, curtail or extend the period of appointment made under sub section (1).

(3) On the appointment of an Administrator under sub-section (1) all powers and duties of the Panchayat and the Sarpanch thereof shall be exercised and performed by the Administrator so appointed.

(4) The Administrator shall be deemed to be a duly constituted Panchayat for the purposes of this Act.]

²[10. *Electors, electoral rolls and right to vote.*—(1) For each of the wards into which a Panchayat circle is divided

1. Inserted by Section 7 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-8-60

2. Substituted by Section 8 *ibid*.

under section 5, there shall be prepared and maintained¹ [× × ×] in the prescribed manner a [by or under the supervision of the Collector or of such subordinate Gazetted Officer of the State Government as the Collectors authorise in this behalf] a list of the voters thereof.

²“(1A) Every person, who is qualified to be registered in the Rajasthan Legislative Assembly electoral roll relatable to the area comprised in the panchayat circle or a ward thereof or whose name is entered in such roll, shall be entitled to be registered in the list of voters of such panchayat circle or ward, as the case may be :

Provided that no such person shall be entitled to be so registered more than once or in more than one ward of the same panchayat circle.]

(iii) in sub-section (2), between the words “shall” and “conform”, the words, brackets, figure and letter “subject to the provisions of sub-section (1A) and further subject to any rules made in this behalf” shall be inserted and be deemed to have been inserted.

(2) Such list shall [subject to the provisions of sub sec. 1) and further subject to any Rules made in this behalf]³ conform to the latest electoral roll of the Rajasthan Legislative Assembly relatable to the area comprised in such ward, prepared under and in accordance with the provisions of the presentation of the People Act, 1950 (Central Act 43 of 1950).

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1. Omitted and shall be deemed to have been omitted from the 31st day of Oct., 1960, by Section 5(i)(a) of Rajasthan Act No. 10 1961 published in Rajasthan Gazette, Part IV-A, Extra, dated 4-4-61.
 2. Inserted and shall be deemed to have been inserted from the 31st day of Oct., 1960 by Section 5 (i) (b)-ibid.
 3. Inserted and shall be deemed to have been inserted from the 31st day Oct., 1960 by Section 5 (i) (b)-ibid.
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(3) Every person whose name appears for the time being in the list of voters for a ward shall, unless he is disqualified to do so under any law, for the time being in force, be entitled to vote at an election in that ward.

(4) Every such person shall be entitled to cast as many votes as there are Panchas to be elected from that ward and no person shall be entitled to vote in more than one ward or to cast more than one vote in favour of the same person.]

11. *Qualification of Panchas.*—Every person, who is entitled to vote at an election in any Panchayat Circle or a Ward thereof for the purposes of this Act, shall be qualified for election or appointment as a Panch, unless such person—

¹["(a) holds a salaried whole-time or part-time appointment under the Central Government or a State Government or a local authority,"]

(b) is under 25 years of age ;

(c) has been dismissed from ¹[State Government] service for misconduct involving moral turpitude and has been declared to be disqualified for employment in the public service ;

(d) holds any salaried post or place of profit in the gift or disposal of the Panchayat ;

(e) has directly or indirectly ²[by himself or by his partner, employer or employee] any share or interest in any contract with, by or on behalf of, the Pancha-

1. Substituted by Section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extra, Part IV-A, dated 13-8-1957.

2. Inserted by section 4 (vi) (b)-of Rajasthan Act No. 5 of 1958, published in Rajasthan Gazette, Extra, Part IV-A, dated 13-8-1957.

yat, while owning such share or interest ¹[in any work done for or] ;

- (f) is a leper or is suffering from other bodily or mental defect or disease rendering him incapable for work ;
- (g) has been convicted by a competent court of an offence involving moral turpitude ;
- (h) is an undischarged insolvent;
- ²[(i) has been convicted of an offence under the Untouchability (Offences) Act, 1955 (Central Act 22 of 1955);]
- ³[(j) is for the time being ineligible for election under Sub-Section (4B) of Section 17 of this Act or under Sub-Section (3) of Section 40 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 ;
- (k) has not paid, for two months from the date of the presentation of the bill therefor, the amount of any tax or fee imposed by the Panchayat under this Act or by a Panchayat Samiti under the Rajasthan Panchayat Samitis and Zila Parishads Act 1959;
- (l) is employed as a legal practitioner on behalf of, or against, the Panchayat ;]
- ⁴[(m) has been convicted of an offence punishable under the Rajasthan Prevention of Mrityu Bhoj Act 1960;]

1. Inserted by sec. 4 (vi) (b) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 9-9-1959.

2. Inserted by Section 2 of Rajasthan Act No. 14 of 1957, published in Rajasthan Gazette, Extra, Part IV-A, dated 30-5-1957.

3. Inserted by Section 4 (vi) (c) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra, Part IV A, dated 9-9-1959

4. Inserted by Section 13 (i) of Rajasthan Act No. 1 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 10-2-1960.

¹[Provided that—

- (i) a person shall not, by reason of his being a shareholder in or a member of any incorporated company or a co-operative society registered under the law for the time being in force in the State of Rajasthan, be held to be interested in any contract entered between the company or cooperative society and the Panchayat ;
- (ii) for the purposes of clauses (c), (g) ² [× × ×] (i) ² [and-(m)] any person shall become eligible for election after a lapse of six years from the date of his dismissal or conviction, as the case may be, or earlier if he is declared eligible for election by a general or a special order of the State Government in this behalf, and
- (iii) for the purpose of clause (k), a person shall not be deemed to be disqualified if he has paid the amount of the tax or fee due from him before the date of filing his nomination paper.

12. *Prohibition against holding office in more than one Panchayat.*—No person shall hold office in more than one Panchayat.

13. *Sarpanch and Up-sarpanch.*—(1) Every Panchayat shall have a Sarpanch who must be a person qualified to be elected as a Panch and able to read and write Hindi and shall be elected by the electors of the whole Panchayat Circle in the prescribed manner.

1. Substituted by Section 4 (Vi) (d) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra, Part IV-A dated 9-9-1959.
2. Omitted and inserted by Section 13 (2) of Rajasthan Act No. 1 of 1960, published in Rajasthan Gazette, Extra, Part IV-A dated 10-2-1960.

(2) Every Panchayat shall have an Up-Sarpanch who must be a person able to read and write Hindi and shall be elected ¹[in the prescribed manner by the sarpanch and the elected coopted panch as from amongst the elected & coopted panchas]

(3) If the electors of a Panchayat Circle fail to elect Sarpanch in accordance with this Section or if the Paachas fail to elect Up-Sarpach, the State Government shall appoint a person to the vacancy till such vacancy is filled up by election within a period of six months and the person so appointed shall be deemed to be a duly elected Sarpanch or Up-sarpanch, as the case may be.

(4) Except as provided above a Sarpach shall hold office during the term of the Panchayat and an Up-Sarpanch as long as he continues to be a Panch of the Panchayat.

²[13-A--*Electoral offences.*—The provisions of sections 126, 127, 127-A, 128, 129, 130, 131, 132, 133, 134, 135 and 136 of the Representation of the People Act, 1951 (Central Act XLIII of 1951) shall have effect as if—

- (a) references therein to an election were references to an election under this Act ;
- (b) references therein to a constituency included references to a panchayat circle and a ward ; and
- (c) in sections 134 and 136 for the words and figures “by or under this Act” the words and figures “by or under the Rajasthan Panchayat Act, 1953” had been substituted.]

COMMENTS

This section is new and has been inserted by the Rajasthan Panchayat Laws (Amendment) Act 1964. Prior to this amend-

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- 1. Substituted by sec. 5 of the Raj. Act No 32 of 1964 published in the Raj Gazette Extra part IV A dated 3 Dec. 1964.
 - 2. Inserted by section 6 of *ibid*.

ment, there was no provision in the Rajasthan Panchayat Act regarding the electoral offences. Certain provisions did however, exist in the rules but they were not comprehensive. The Act has made applicable the provisions of Sections 126, 127, 127-A, 128 to 136 of the Representation of the People Act, 1951 to the panchayat elections also, which means that the election offences in the Panchayat elections will be the same as in the General Elections. The act which constitute electoral offences under the provisions of the aforesaid sec. are as follows:-

1. Sec. 126. Holding of or attending public meeting in the polling area within 24 hours before the date of commencement of the poll (sentence—Fine up to Rs. 250/-)
2. Sec. 127.—Disturbance at election meetings (Sentence—Fine up to Rs. 250/—)
3. Sec. 127A. Printing of pamphlets, posters etc. without giving the names and address etc. (Sentence—Imprisonment up to six months or Fine up to Rs. 2000/—or with both.)
4. Sec. 128.—Not maintaining the secrecy of voting by persons connected with election duty. (Sentence—Imprisonment up to 3 months or with fine or with both.
5. Sec. 129.—Acting for candidates or influencing of voting by officers on election duty. (Sentence—Imprisonment up to 6 months or with fine or with both.)
6. Sec. 130.—Canvassing in or near polling station. (sentence—fine up to Rs. 250). Offence is cognizable, ie., the police may arrest without warrant.
7. Sec. 131.—Disorderly conduct in or near polling Station. (Sentence—Imprisonment up to 3 months or fine or with both.) Presiding officer can order arrest of any perom found guilty under this section.
8. Sec. 132.—Misconduct at the polling station.

- (Sentence—Imprisonment up to 3 months or with Fine or both.) Offence is cognizable.
9. Sec. 133.—Illegal hiring or procuring of conveyances at elections. (Sentence—Fine up to Rs. 500/—)
 10. Sec. 134.—Breaches of official duty in connection with elections. (Sentence—Fine up to Rs. 500/—)
 11. Sec. 135.—Removal of ballot papers from polling station. (Sentence Imprisonment up to one year or with fine up to Rs. 500/ or with both.) Offence is cognizable.
 12. Sec. 136.—Other offences : fraudulently defacing or destroying nomination paper, list, notice, ballot paper or official mark on any ballot paper ; supplying or receiving of ballot paper without due authority ; and interfering with the ballot box in any way etc. (Sentence—up to two years or with fine or with both.) Offence is Cognizable.

14. *Notification of election or appointment.*—Every election or appointment of a Sarpanch, Up-Sarpanch and a Panch ¹[excluding an associate panch] shall be notified in the ³[Official Gazette] in accordance with rule made under this Act.

15. *Oath or affirmation.*—²[Every panch or Sarpanch shall, before entering upon his duty as such, make and subscribe before the prescribed authority an oath or affirmation in the prescribed form.]

⁴[15A. *Handing over of charge.*—(1) Whenever the election of a Panch, Sarpanch or Up-Sarpanch has been declared to be void, or

1. Inserted by sec.—7 of the Raj. Act No. 32 of 1964.

2. Substituted by sec. 5 of *ibid*.

3. Substituted by Section 4 of Rajasthan Act No. 27 of 1957, published in Rajasthan Gazette, Extra, Part IV-A, dated 13-8-57.

4. Inserted by Section 9 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV-A, dated 24-8-1960.

whenever any Panch, Sarpanch or Up-Sarpanch—

- (i) is not qualified or becomes disqualified under Section 11 to hold such office, or
- (ii) ceases to be so under sub-section (2) of Section 17 or otherwise, or
- (iii) fails to make the prescribed oath or affirmation in accordance with Sub-Section (3) of Section 17, or
- (iv) is removed from office under Sub-Section (4) of Section 17 or is suspended under Sub-Section (4A) of that Section, or
- (v) resigns his office under Section 18; or

Whenever a motion of no-confidence is passed against a Sarpanch or Up-Sarpanch under Section 19 and such Sarpanch or Up-Sarpanch does not resign and is consequently removed from office; or

Whenever the term of office of a Panchayat expires and the election of all the Panchas with or without the Sarpanch has been declared void or such election or the proceedings subsequent thereto have been stayed by an order of a competent court; or

Whenever a Panchayat is dissolved or superseded under Section 73, such Panch, Sarpanch or Up-Sarpanch or the Sarpanch and Panchas of such Panchayat, as the case may be, shall forthwith hand over charge in the prescribed manner of his or their office including all papers and properties, pertaining to such office, in his or their actual possession or occupation,—

- (a) in the case of a Panch, to the Sarpanch of the Panchayat,
- (b) in the case of a Sarpanch, to the Up-Sarpanch of the Panchayat or where there is no such Up-Sarpanch, to such Panch of the Panchayat or other person as the officer-in-charge of Panchayat

- (c) in the case of an Up-Sarpanch, to the Sarpanch of the Panchayat or, where there is no such Sarpanch, to such Panch of the Panchayat or other person as the officer-in-charge of Panchayats may direct,
- (d) in the case of a Panchayat of which the term of office has expired--
 - (i) if a new Panchayat has been constituted, to such Panchayat, or
 - (ii) if a new Panchayat has not been constituted for any of the reasons specified in Section 9A, to the Administrator appointed under that Section ; and
- (e) in the case of a Panchayat dissolved or superseded under Section 73, to the Panchayat newly constituted or to the Administrator appointed under that Section.

(2) Upon the election or appointment of a new Panch, Sarpanch or Up-Sarpanch or upon the constitution of a new Panchayat, as the case may be, and after the oath or affirmation of office required by Section 15 has been duly made, the person holding, at the date on which such oath or affirmation is made, charge of the office of such Panch, Sarpanch, Up-Sarpanch or Panchayat in pursuance of Sub-Section (1) shall forthwith hand over to the person so elected or to the Panchayat so constituted, as the case may be, the charge of office including all papers and properties pertaining to such office in his actual possession or occupation.

(3) If any person fails or refuses to hand over charge of office as required under Sub-Section (1) or Sub-Section (2), the prescribed authority may, by order in writing, direct the person so failing or refusing to hand over such charge forthwith

to the person or persons entitled thereto under Sub-Section (1) or Sub-Section (2), as the case may be.

(4) If the person to whom a direction has been issued under sub-section (3) fails to comply with the direction, he shall, on conviction, be punished with imprisonment for a term not exceeding one year or with fine not exceeding one thousand rupees or with both.

(5) Any officer empowered by the prescribed authority in this behalf may, without prejudice to any action that has been or may be taken under Sub-Section (4), use such force as may be deemed necessary for enforcing the provisions of Sub-Sections (1) and (2) and may for that purpose invoke in the prescribed manner the assistance of the police or the nearest Magistrate competent to do so].

17. *Vacation of seats by and removal of Panchas.*—(1) (a) If any Panch, Sarpanch or Up-Sarpanch, who is not qualified for election or appointment as such under this Act, has been elected or appointed to a Panchayat, or

(b) if any Panch, Sarpanch or Up-Sarpanch after having been elected or appointed as aforesaid, becomes disqualified during the term of his office for such election or appointment, his seat shall be declared by the State Government, after giving him an opportunity of being heard, to have become vacant.

(2) If any Panch, Sarpanch or Up-Sarpanch during the term of his office, absents himself from five consecutive meetings of the Panchayat without giving information in writing to the Panchayat he shall cease to be such Panch, Sarpanch or Up-Sarpanch and his seat shall become vacant.

(3) If any Panch or Sarpanch fails to make the prescribed oath or affirmation of his office within three months from the date of notification under section 14, his seat shall be declared by the State Government to have become vacant.

(4) The State Government may, by order in writing and after giving him an opportunity of being heard and making such inquiry as may be deemed necessary, remove any Panch, Sarpanch or Up-Sarpanch who—

(a) refuses to act or becomes incapable of acting as such, or

(b) in the opinion of the State Government, has been guilty of misconduct or neglect in the discharge of his duties or of any disgraceful conduct :

¹[Provided that any such inquiry as is referred to in this sub-section may be initiated even after the expiry of the term of a Panchayat or, if already initiated before such expiry, may be continued thereafter and in any such case the State Government shall, by order in writing only record its findings on the charges levelled against a Panch, Sarpanch or Up-Sarpanch of the Panchayat during its term of office].

²[(4A) The State Government may, during the course of any inquiry under sub section (4) suspend a Panch, Sarpanch or Up Sarpanch against whom the inquiry has been started and debar him from taking part in any act or proceeding of the Panchayat while under such suspension.

(4B) A Panch, Sarpanch or Up-Sarpanch who has been removed under sub-section (4) or against whom findings have been recorded under the proviso to that sub-section shall not be eligible for re-election under this Act for a period of three years from the date of his removal or, as the case may be, from the date on which such finding are recorded].

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1. Added by section 4(vii) (a) of Rajasthan Act No. 37 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 9-9-1959,
 2. Substituted by section 4(vii) (b)-ibid.

(5) The decision of the State Government on any matter arising under this section shall be final and shall not be liable to be questioned in any court of law.

18. *Resignation of office of Panch or Sarpanch.*—A Panch, Sarpanch or Up-Sarpanch may resign his office by letter addressed to the ¹[Officer-in-charge of Panchayats] and, on such resignation being accepted by the ¹[Officer-in-charge of Panchayats], such Panch, Sarpanch or Up-Sarpanch shall be deemed to have vacated his office.

19. *Motion of no-confidence.*—(1) A motion of no-confidence may be moved by any Panch after giving such notice as may be prescribed against the Sarpanch and Up-Sarpanch.

(2) If the motion against the Sarpanch is carried by a majority of not less than 3/4th of the total number of Panchas or if the motion against the Up-Sarpanch is carried by a majority of the total number of Panchas, the Sarpanch or the Up-Sarpanch, as the case may be, shall within 3 days of the passing of the motion resign his office by submitting his resignation to the ¹[Office-in-charge of Panchayats] and there upon his office shall be deemed to be vacant.

(3) If the Sarpanch or the Up-Sarpanch as the case may be against whom the motion of no-confidence has been carried, does not resign his office within the period prescribed in subsection 2, he shall be removed from his office by the ¹[Officer-in-charge of Panchayats.]

(4) Notwithstanding anything contained in this Act or rules thereunder, a Sarpanch or an Up-Sarpanch shall not

1. Substituted by section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 13-6-1959.

preside at a meeting in which a motion of no-confidence is discussed against him but he shall have a right to speak and otherwise to take part in the proceedings of the Panchayat.

20. *Bye-election.*—In the event of the office of a Panch, Sarpanch or Up-Sarpanch becoming vacant by death, removal, resignation or otherwise under this Act, which shall be forthwith reported to the ¹[Officer-in-charge of Panchayats], an election to fill the vacancy shall be held in such manner as may be prescribed. The foregoing provisions of this Act shall apply to such election and the Sarpanch, Up-Sarpanch or Panch so elected or appointed shall hold office for the remainder of the term during which the out-going Sarpanch, Up-Sarpanch or Panch would have been entitled to hold office if the vacancy had not occurred :

Provided that such vacancy shall not be filled up if the said term would expire within six months from the date of the occurrence of such vacancy.

22. *An Act of Panchayat not to be invalidated by vacancy or irregularity.*—No act of Panchayat shall be deemed invalid by reason of any vacancy of the Sarpanch or Up-Sarpanch or in the number of Panchas prescribed for such Panchayat or by reason of any defect, error, omission or irregularity in the election or appointment of the Sarpanch, Up-Sarpanch or any other Panch of such Panchayat.

CHAPTER IV

²[*Nyaya Panchayats*]

³Constitution

27B. *Constitution of Nyaya Panchayats.*—(1) For the administration of criminal and civil justice there shall be consti-

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1. Substituted by Section 5 of Rajasthan Act No. 30 of 1959, published in Rajasthan Gazette, Extra, Part IV-A, dated 13-6-1959.
 2. Substituted by section 18 of Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extra, Part IV, dated 24-8-1960.
 3. Inserted by Section 19-ibid.

tuted, by notification in the Official Gazette, a Nyaya Panchayat for such number of contiguous Panchayat circles, not being less than five or more than seven in number, as the Officer-in-charge of Panchayats may direct :

Provided that the State Government shall have the power to direct the constitution of a Nyaya Panchayat for a smaller number of such Panchayat circles.

(2) The Nyaya Panchayat so constituted shall be known by such name as may be specified in the notification and the Panchayat circles for which it shall have been constituted shall collectively be called the Nyaya circle thereof, and it shall be competent for the officer-in-charge of Panchayats with the approval of the State Government to reconstitute, from time to time, any such Nyaya circle by notification in the Official Gazette.

27C. *Composition of Nyaya Panchayats.*—(1) Every Nyaya Panchayat shall be composed of a panel of members equal in number to the number of Panchayat circles for which it is constituted.

(2) Subject to the provisions of sub-section (3), each Panchayat shall elect in the prescribed manner one member to the Nyaya Panchayat constituted for its Panchayat circle from amongst the electors referred to in section 10.

(3) No person shall be qualified for being elected as, or for continuing to be, a member of a Nyaya Panchayat—

- (i) if he is below thirty years of age, or
- (ii) if he is unable to read and write Hindi fluently, freely and legibly, or
- (iii) if he is, or becomes, subject to any of the disqualifications mentioned in section 11, or

him to be necessary or expedient in connection with the requisitioning :

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose in connection with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be affected by an order in writing addressed to the person deemed by the Collector to be the owner or person in possession of the vehicle, vessel or animal and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any vehicle, vessel or animal is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which the same is required for any of the purposes mentioned in that sub-section.

(4) In this section, the word "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

83B. *Payment of compensation.*—(1) Whenever in pursuance of section 83A the Collector requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof, out of the Consolidated Fund of the State, compensation the amount of which shall be determined by the Collector on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal :

Provided that, where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government, the amount of compensation to be paid shall be such as the State Government may determine.

Section V

Election Rules Under the Raj. Panchayat Samitis
& Zila Parishads Act, 1959.

Election Rules under the Rajasthan Panchayat Samitis & Zila Parishads Act, 1959

<i>Rules</i>	<i>Pages</i>
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10. The Rajasthan Zila Parishads (Election of Temporary Pramukh) Rules, 1959.	95
11. The Rajasthan Zila Parishads (co- option of Members) Rules, 1959.	99
12. The Rajasthan Panchayat Samitis and Zila Parishads (Motion of no-confidence in Pradhan, Up Pradhan, Pramukh or Up-Pramukh) Rules, 1961.	112

Comments

After the first publication of these rules in the Official Gazette on the 10th September, 1959, they have been amended six times, besides by Act No. 8 of 1962. The last notifications amending these rules were published in the Rajasthan Gazette Part IV-C, on 18-9-59; 7-12-60; 12-12-60; 21-2-61; 1-2-62 & 26-7-62.

2. *Definitions.*—In these Rules, unless the context otherwise requires—

(i) 'Act' means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. XXXVII of 1959);

¹[(ia) 'Gramdan Village' means a village notified as a Gramdan Village under section 5 of the Rajasthan Gramdan Act, 1960;]

(ii) 'Member' means persons specified in ²[clause (i)] of sub-section (1) of section 8 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959;

(iii) 'Section' means section of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959;

(iv) 'Returning Officer' means the Collector and includes an Additional Collector or Sub-Divisional Officer;

(v) Words and expressions used but not defined in these Rules shall have the meanings assigned to them in the Act;

³[2A (i) *Determination of number of each class of persons to be co-opted.*—As soon as a notification constituting a Panchayat Samiti under section 7 of the Act has been issued, the Collector shall, in the manner herein provided, determine the number of persons to be

¹ Inserted by Notification No. F-2 (4) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, date 7-12-60.

2. Substituted by Sub. item (ii) of item 1-ibid.

3. Inserted by item 2-ibid.

co-opted under each of the clauses of sub section (2) of section 8.

(ii) In determining the matters referred to in clause (i) of sub-section (2) of section 8, the Collector shall have regard to the following provisions :—

(a) the population figures as at the last census of the Gramdan Villages in the block shall be the basis for the purpose;

(b) all units into which the Gramdan village or group of Gramdan villages may be required to be divided shall, as far as practicable, consist of geographical compact areas and in demarcating them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience;

(iii) The Collector shall send his proposal in respect of the determination of number under clause (i) of sub-section (2) of section 8 to the Presidents of the Gram Sabhas of Gramdan villages situated in the block and consider all objections and suggestions which may be received by him before the date that may have been specified by him and for the purpose of such consideration may hold one or more meetings and thereafter determine the matters.

(iv) The Collector shall cause the units formed and the number of persons determined for co-option published by affixing a copy of the same on the notice board of the office of the Panchayat Samiti and by sending a copy to each of the Presidents of the Gram Sabhas under certificate of posting in the manner he deems proper.]

Comments

Gramdan villages—For the list of G

kindly see list, under the comments of section 8 of the Rajasthan Panchayat Samitis & Zila Parishads Act, 1959, given in the following pages.

3. *Notice for special meeting for co-option.*—(1) ¹[As soon as the number of each class of persons to be co-opted is determined under rule 2 A,] the Collector shall on a date previously to the date appointed for the constitution of a Panchayat Samiti under section 7 or subject to the provisions of sub-section (4) of section 7, on every occasion when the Panchayat Samiti is reconstituted, convene at the office on the Panchayat Samiti, at the appointed time a special meeting of members specified ²[in clause (i)] of sub-section (1) of section 8, after giving them a notice in writing of not less than seven clear days for the co-option of members specified in sub-section (2) of section 8.

(2) The Notice referred to in sub-rule (1) shall state:-

²[(a) the number of each class of persons to be co-opted from amongst persons mentioned in sub-section (2) of section 8.]

(b) the place and date on which and the hours between which nomination papers shall be filed.

(c) the place and date on which and the hours between which the nomination papers will be taken up for scrutiny, and

(d) the place and date on which, and the hours between which the votes of the members will be taken, should there be a poll.

(3) Such notice shall be sent by post or by such

substituted by Notification No. F. 2 (4) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 7-12-60.

substituted by item 3 (c) *ibid*.

other mode as the ¹[Collector] may consider expedient to every member at his ordinary place of residence.

- (4) Such notice shall be published by affixing it on the Notice Board of the Panchayat Samiti at its office.

Comments

Period of Notice—Date of the issue of notice as also the date of meeting are not counted in computing seven days time.

4. *Collectors etc. to preside over meeting for co-option.*—The meeting for co-option of members shall be presided over by the Collector or the Additional Collector or the Sub-Divisional Officer ²[hereafter referred to as the Returning-Officer.]

5. *Filing of nomination papers.*—(1) The nomination of every candidate shall be made by means of a nomination paper in the form prescribed in Schedule I.

(2) Every nomination paper shall be signed by two members as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for co-option.

(3) Each candidate shall be nominated by a separate nomination paper.

(4) Every nomination paper shall be presented by the candidate or his proposer or seconder on the date, at the place and during the hours specified in the notice for filing nomination papers.

1. Substituted by Notification No. F. 2(4) Plan/B/59/4837/dated, 20-2-61 published in Rajasthan Gazettee, Part IV 21-2-61.

2. Inserted by ibid.

(5) Immediately after the time for receipt of nomination papers is over, the Returning Officer shall cause to be published a list, in the form prescribed in Schedule II, containing the names of the candidates whose nomination have been received under the preceding sub-rule.

6. *Scrutiny of nomination papers.*—(1) On the date appointed for the scrutiny of nominations, the candidate, his proposer and seconder may attend at such place and time as is specified in the notice for the scrutiny of nomination papers and the Returning Officer shall give such persons all reasonable facilities to examine the nomination papers of all the candidates which have been received as aforesaid.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may, either on such objection, or his own motion and, after such summary enquiry if any, as he may deem necessary, reject any nomination on any one or more of the following grounds :—

(a) that the candidate is not eligible for co-option under section 8,

(b) that the candidate suffers from any of the disqualifications mentioned in section 15 of the Act, or

(c) that the proposer or seconder is a person who is not a member:

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder, or any other particulars relating to the candidate or his proposer or seconder if the identity of the candidate, proposer or seconder, as the case may be, can otherwise be established beyond reasonable doubt.

Provided further that in the case of a dispute whether any candidate has experience in administration, public life or rural development beneficial to the Panchayat Samiti or not, such dispute shall be referred to the State Government ¹[or the persons or authority to whom the powers are delegated in this behalf], whose decision shall be final.

(3) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing, a brief statement of reasons for such rejection.

Comments

A candidate need not personally file a nomination paper nor he should be present at the time of the scrutiny and nomination paper can be rejected on any

Scrutiny must start at the right place at the date stated in the notice.

Nomination
grounds stated in
Wrongful rejection
election petition,
trivial mistakes eg
date, his proposed
wise established.

for co-option] cause to be published a list containing the names of the validly nominated candidates in the form prescribed in Schedule III by affixing it on the Notice Board of the Panchayat Samiti at its office.

8. *Withdrawal of candidature.*—A candidate may withdraw his candidature any time before the commencement of the poll by giving a notice in writing to that effect to the Returning Officer.

9. *Procedure after publication of the list of validly nominated candidates.*—(1) If the number of candidates is equal to the number of vacancies, the Returning Officer shall declare all such candidates duly elected as co-opted members.

(2) If the number of such candidates is less than the number of vacancies, the Returning Officer shall declare all such candidates duly elected as co-opted members and shall adjourn the meeting to another date not less than seven days after the date appointed under sub-section (1) of section 11 to fill up the remaining vacancies.

(3) If the number of candidates exceeds the number of persons to be co-opted, an election shall be held by secret ballot and votes of the members present at the meeting shall be taken.

10. *Procedure for adjournment of meetings for co-option for want of quorum etc.*—(1) If for want of necessary quorum or for any other sufficient reason, the members fail to co-opt the persons specified in sub section (2) of section 8, the Returning Officer shall adjourn the same to another date not less than seven days after the date appointed under sub-section (1) of section 11.

(2) One-third of the total number of members shall form the quorum of a meeting for co-option.

(3) A notice of the date fixed for the adjourned meeting shall be affixed on the Notice Board of the Panchayat Samiti at its office and shall be despatched by post individually to the members specified in clauses (i) and (ii) of sub-section (1) of section 8 ¹[under a certificate of posting].

(4) Immediately after adjournment of the previous meeting under the preceding sub-rule and upon such despatch, the notice shall be regarded as having been served on the members within the ordinary course of post.

11. Voting and result of election —(1) The Returning Officer shall cause such arrangements to be made as will ensure the secrecy of the ballot.

(2) Every member wishing to vote shall be supplied with a ballot paper on which names of duly nominated candidates, who have not withdrawn their candidature, shall be printed, typed, cyclostyled or legibly written in Hindi in the alphabetical order of their names in the form prescribed in the Schedule IV.

(3) The voter shall place a cross mark (×) in column 2 of the ballot paper duly authenticated by seal and signatures of the Returning Officer against the ²[name or names of the candidate or candidates] for whom he wishes to vote with a ³[pencil of any colour, red or blue or black whichever is placed in the polling compartment and may be available at the polling station.]

1. Inserted by item 6 of the Notification No. F. 2 (4) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 7-12-60
2. Substituted by item 1 of Notification No. F. 2 (4) Plan/B/59, dated 12-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.
3. Inserted by Notification No. F. 2 (4) Plan/B/59/19, dated 1-1-62, published in Rajasthan Gazette, Part IV-C, ²Extraordinary, dated 1-1-62.

¹[Provided that if a voter is illiterate or by reason of infirmity is unable to vote in the above manner, the Returning Officer shall at the request of such voter, make the marks on the ballot papers according to the directions of such voters and shall cause the ballot papers so marked to be placed in the ballot box.]

(4) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Returning Officer.

(5) The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked.

(6) Every person wishing to record his vote shall do so in person and not by proxy.

(7) The Returning Officer shall, after the voting is over, count the votes, in the presence of such members as may be present and declare the result in the following manner :—

(a) The candidate who is found to have obtained the largest number of valid votes, or if more than one is to be co-opted, the candidates up to the number of persons to be co-opted who are found to have obtained the largest number of valid votes shall be declared to have been co-opted.

(b) In the event of there being an equality of votes between the candidates the Returning Officer shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected as co-opted member.

1. Added vide Notification No. F. 45 (173) (93) Coord./DD./59, dated 18-9-59, published in Rajasthan Gazette, Part IV—C, Extraordinary, dated 18-9-59.

12. *Validity of ballot papers*—Any voting paper which bears any mark or any signature of any voting member by which the voter can be identified or in which the mark (X) is placed against more than the number of vacancies or in an ambiguous manner which does not bear the official seal and signatures in Sub-Rule (3) of Rule 11 shall be invalid.

13. *Preparation of record of proceedings and publication of result of election*.—Immediately after the meeting for co-option, the Returning Officer shall :—

- (a) prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member present at the meeting to affix his signature to such record, if he expresses his desire to do so;
- (b) publish on the Notice Board of the Panchayat Samiti at its office a notification signed by him, stating the names of the persons elected as co-opted members and send a copy of such notification to the Collector and the Government.

14. *Packing and preservation of election record*.—(1) The Returning Officer shall make up into separate bundles—

- (i) such of the ballot papers as have been accepted valid;
- (ii) the remaining ballot papers which have been rejected as invalid, and
- (iii) all other record including nomination papers etc.

(2) He shall then make up the above three bundles into one packet and seal the packet noting thereon d

of the contents, the election to which they relate and the date thereof.

(3) The packets shall be retained in safe custody in the office of the Collector concerned for a period of three years and shall then, unless otherwise directed by a competent court, be destroyed.

¹[14 A. *Production and inspection of election papers.*— While in the custody of the Collector, the packets of co-option papers shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the orders of a competent court.]

²[15 *Filling up of vacancies*—

(1) Any vacancy occurring in the office of a co-opted member before the expiration of the term of office of a Panchayat Samiti as provided for in sub-section (1) of section 14 or before the expiration of his term of office provided for in sub-section (2) of section 14 shall be filled by cooption of another person in the manner provided in section 8 and the person so co-opted shall hold office—

(i) in the first case, for the term of his office as provided for in sub-section (2) of section 14 or for the residue of the term of office of the Panchayat Samiti, whichever may be shorter, and

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1. Inserted by item 7 of Notification No. F. 2 (4) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV—C, Extraordinary, dated 7-12-60.
 2. Substituted vide Notification No. F. 2 (4), Plan/B/59/32646, dated 26-7-62, published in Rajasthan, Gazette, Extraordinary, Part—C, dated 26-7-62.

(ii) in the second case, for the residue of the term of office of his predecessor :

Provided that the meeting for such co-option shall be convened and presided over by the Pradhan or in his absence by the Up-Pradhan within a month of the occurrence of the vacancy, failing which the Collector shall, on being apprised of the vacancy and such failure by the Vikas Adhikari convene for the purpose a special meeting of the Panchayat Samiti and the provisions of section 8 shall, so far as may be, apply to such special meeting, to the convening thereof and to the filling of the vacancy by the State Government.]

Comments

This rule has been added in consequence of the amendment of section 18 of the R. P. S. & Z. P. Act, 1959 which authorizes the Collector to proceed with by-co-option on the failure of the Pradhan to call a meeting 'within one month' of the occurrence of a vacancy. If, however, the Collector also does not act, then the Pradhan's power to call a meeting remains and he can do so even after one month. The Pradhans power comes to an end when the Collector issues a notice for holding a special meeting for by-co-option.]

Only Sarpanchas and Krishi Nipun are entitled to vote in by-co-option & other co-opted members have no right to vote at such meeting vide section 11 (1) read with section 8 (1) of the R. P. S. & Z. P. Act.

¹[16. x x x]

1. Omitted by item 2 of Notification No. P.
12-12-60, published in Rajasthan Gazette,
12-12-60.

SCHEDULE-I

[*Sub-rule (1) of the Rajasthan Panchayat Samitis (Co-option of Members) Rules, 1959*]

Nomination form for Election of co opted Member of panchayat Samiti ¹[xxx] ²[for the Seat mentioned in clause....of sub-section (2) of Section 8 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 for.....(give description of the Seat).]

1. Name of the Panchayat Samiti.
2. Full name of the candinate.
3. Father's or Husband's name.
4. Age.
5. Sex.
6. Address.
7. Full name and address of the Proposer.
8. Full name and address of the Seconder.

1. *Signature of the Proposer.* 2. *Signature of the Seconder.*

Date.

Date.

Place.

Place.

Candidate's declaration.

I, the above named candidate, give my consent to this nomination and hereby declare that I do not hold any of the disqualifications enumerated in section 15 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, and that I am

-
1. Omitted by item 3 of Notification No. F. 2 (4) Plan/B/59, dated 9-12-60, published in Rajasthan Gazette, Part IV C,—Extraordinary, dated 9-12-60.
 2. Inserted by item 8 of Notification No. F. 2 (4) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV—C, 'Extraordinary, dated 7-12-60.

qualified to be a candidate for co-option to the Panchayat Samiti under the provisions of the said Act.

Date.

Place.

Signature of the candidate.

ENDORSEMENT BY THE RETURNING OFFICER

Serial Number.

This nomination paper was presented to me by.....
(Name) at.....(date and hour).

Date.

Place.

Signature of the Returning Officer.

ORDER OF THE RETURNING OFFICER

Accepted/Rejected.....
Reasons for rejection.....
.....

Date.

Place.

Signature of the Returning Officer.

Received nomination paper of Shri.....for election as
a co-opted member of.....Panchayat Samiti, proposed
and seconded by (1).....and (2).....
respectively which was presented to me at.....(Place)
at.....(time).....this.....
day of.....
Shri.....

[Sub-rule (5) of

Co-option of Members

List of members of Panchayat Samiti

S. Name and description candidate. Address. Sex. Remarks.
No.

1.

2.

3.

4.

5.

Place.

*Date.**Signature of the Returning Officer.*

SCHEDULE III

[*Rule 7 of the Rajasthan Panchayat Samitis (Co-option of Members) Rules, 1959.*]

List of candidates validly nominated for election as co-opted members of a Panchayat Samiti.

S. Name and description of candidate. Address. Remarks.
No.

1.

2.

3.

4.

5.

Date.

*Place.**Signature of the Returning Officer*

SCHEDULE IV

[*Sub-rule (2) of Rule 11 of the Rajasthan Panchayat Samitis (Co-option of Members) Rules, 1959.*]

Ballot Paper.

.....Panchayat Samiti.....

Signature and seal of the Returning Officer.

S. No.	Name of the candidate with the name of father or husband and residence.	{For Mark by voter.
-----------	--	------------------------

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA PARISHADS (ELECTION OF PRADHAN, UP-PRADHAN, PRAMUKH AND UP-PRAMUKH) RULES, 1959.

[Notification No. F. 45 (173) (72) Coord /D.D./59, dated 10-9-59, published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 10-9-1959.]

In exercise of the powers conferred by sub-section (1) of section 79 read with section 12 *[and Section 45] of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. XXXVII of 1959), the State Government hereby makes the following Rules, namely :—

Short title and commencement.—These Rules may be called the Rajasthan Panchayat Samitis and Zila Parishads (Election of Pradhan, Up-Pradhan, Pramukh and Up-Pramukh) Rules, 1959. ¹[They shall come into force from the date of their publication in the Official Gazette.]

PART I.

1. *Definition.*—In these Rules, unless context otherwise requires—

(i) 'Act' means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. XXXVII of 1959),

(ii) 'Section' means a Section of the Act,

1. Inserted by Notification No. F. 45 (173)(72) Coord/DD/59, dated 20-9-59 published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 20-9-59.

* Inserted by item 1 of Pt. & Dev. Deptt. Notification No. F. 2 (5) Plan/B/59, dated 7th Dec. 1960, published in the Rajasthan Gazette, Extraordinary, Part IV-C of 7-12-60.

(iii) 'Returning Officer' means,—

(a) Collector or Additional Collector ¹[or any Subordinate Officer specially appointed for the purpose by the State Government] ²[under section 12] in respect of election of a Pradhan of a Panchayat Samiti,

(b) Pradhan of a Panchayat Samiti in respect of election of an Up-Pradhan of a Panchayat Samiti,

³[(c) Any Officer specially appointed for the purpose by the State Government under section 45 and includes any officer nominated by him to preside at the meeting in respect of election of a Pramukh of a Zila Parishad.]

(d) Pramukh of a Zila Parishad in respect of election of an Up-Pramukh of a Zila Parishad.

(iv) Words and expressions used but not defined in these Rules shall have the meanings assigned to them in the Act.

Amendments :—These rules have been amended six times after their first publication in the Official Gazette and the last amending notification was published on 1. 1. 62.

PART II

2. *Meetings for election of Pradhan*—The election of a Pradhan of a Panchayat Samiti shall be held in the office of the Panchayat Samiti at a meeting to be convened by the Collector and to be presided over by him or the Additional Collector

1. Inserted by Notification No. F. 2 (5)/Plan/B/59 dated 12-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.

2. Inserted by Notification No. F. 2 (5) Plan/B/59 dated 1-1-62, published in Rajasthan Gazette, Pt. IV-C, Extraordinary, dated 1-1-62

3. Substituted by item 2, *ibid.*

¹[or any subordinate Officer specially appointed for the purposes by the State Government] ²[hereinafter referred to as the Returning Officer.]

3. *Notice of meeting.*—(1) ³[Not less than seven clear days before the day fixed for the meeting referred to in rule 2 the Collector shall give notice of the date and hour of such meeting to the members of the Panchayat Samiti.]

The said notice shall state :—

(a) the place and date on which and the hours between which the nomination papers shall be filed,

(b) the place and date on which and the hours between which the nomination papers will be taken up for scrutiny, and

(c) the place and date on which and the hours between which the votes of the members will be taken, should there be a poll.

(2) The notice shall be sent by post or by such other mode as the Returning Officer may consider expedient, to every member of the Panchayat Samiti at his ordinary place of residence. Such notice shall be published by affixing it on the Notice Board of the Panchayat Samiti at its office.

Comments

Seven days Notice :—The provision is mandatory and clear seven days notice must be given.

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1. Inserted by Notification No. F. 2 (5)/Plan/B/59, dated 12-12-90, published in Rajasthan Gazette, Part IV-C, Extraordinary dated 12-12-60.
 2. Inserted by item 3 of Notification No. F. 2 (5) Plan/B/59, dated 1-1-62, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 1-1-62.
 3. Substituted by item 3 (a) of Notification No. F. 2 (5) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 7-12-60.

4. *Filing of nomination paper.*—(1) The nomination of every candidate shall be made by means of a nomination paper in the form prescribed in Schedule I.

(2) Every nomination paper shall be signed by two members as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for election.

(3) Each candidate shall be nominated by a separate nomination paper.

(4) Every nomination paper shall be presented by the candidate or his proposer or seconder on the date, at the place and during the hours specified in the notice for filing nomination papers.

(5) Immediately after the time for receipt of nomination papers is over, the Returning officer shall cause to be published a list, in the form prescribed in Schedule II, containing the names of the candidates whose nomination have been received under the preceding sub-rule.

5. *Scrutiny of nomination papers.*—(1) On the date appointed for the scrutiny of nominations, the candidate, his proposer and seconder may attend at such place and time as is specified in the Notice for the scrutiny of nomination papers and the Returning Officer shall give such persons all reasonable facilities to examine the nomination papers of all the candidates which have been received as aforesaid.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may, either on such objection, or on his own motion and after such summary enquiry, if any, as he may deem necessary, reject any nomination on any one or more of the following grounds :—

(a) that the candidate is not eligible for election as Pradhan under the provisions of the Act,

(b) that the candidate suffers from any of the disqualifications mentioned in section 15 of the Act,

(c) that the proposer or seconder is a person who is not a member of the Panchayat Samiti :

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder, or of any other particulars relating to the candidate or his proposer or seconder, if the identity of the candidate, proposer or seconder, as the case may be, can otherwise be established beyond reasonable doubt.

(3) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing, a brief statement of reasons for such rejection.

6. *Publication of the list of nominated candidates.*—The Returning Officer shall ¹[× ×] ²[before the time fixed for the meeting for election] cause to be published a list containing the names of the validly nominated candidates in the form prescribed in Schedule III by affixing it on the Notice Board of the Panchayat Samiti at its office.

7. *Withdrawal of candidature:*—³[(1)] A candidate may withdraw his candidature any time before the commencement of the poll by giving a notice in writing to that effect to the Returning Officer.

1. Omitted by item 3(b) of F. 2(5) Plan/B-59-I dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 7-12-60.
2. Substituted by item 3 of Notification No. F. 2(5) Plan/B/59 dated 12-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.
3. Renumbered by Notification No. F. 2(5) Plan/B/51-I dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary dated 7-12-60.

¹[(2) The signature of the candidate on the notice referred to in Sub-rule (1) shall be attested by a Gazetted Officer of the State Government.]

8. *Procedure after publication of the list of validly nominated candidates.*—(1) If there is only one duly nominated candidate there shall be no poll and the candidate so nominated shall be declared to have been duly elected.

(2) If there are two or more such candidates, an election shall be held by secret ballot and votes of the members present at the meeting shall be taken.

9. *Voting and result of Election.*—(1) The Returning Officer shall cause such arrangements to be made as will ensure the secrecy of the ballot.

(2) Every member wishing to vote shall be supplied with a ballot paper on which names of duly nominated candidates who have not withdrawn their candidature shall be printed, typed, cyclostyled or legibly written in Hindi in the alphabetical order of their names in the form prescribed in Schedule IV.

(3) The voter shall place a cross mark (X) in column 2 of the ballot paper, duly authenticated by seal and signatures of the Returning Officer against the name of the candidate for whom he wishes to vote with a ²[pencil of any colour red, blue or black whichever is placed in the polling compartment and may be available at the polling station:]

³[Provided that if a voter is illiterate, or by reason of

1. Inserted by item 3 (C) of Notification No. 1 7-12-60, published in Rajasthan Gazette, Part IV-C, dated 7-12-60.

2. Substituted by Notification No. F. 253 Plan.1 published in Rajasthan Gazette, Part IV-C, Ex.

3. Inserted by Notification No. F. 45 (175) 172; C published in Rajasthan Gazette, Part IV-C, of 1

infirmity, is unable to vote in the above manner, the Returning Officer shall, at the request of such voter make the marks on the ballot papers according to the directions of such voter and shall cause the ballot papers so marked to be placed in the ballot box.]

(4) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Returning Officer.

(5) The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked.

(6) Every person wishing to record his vote shall do so in person and not by proxy.

(7) The Returning Officer shall after the voting is over.—

(a) count the votes in the presence of such members as may be present and declare the candidate securing the largest number of valid votes to have been elected.

(b) in the event of there being an equality of votes between the candidates, the Returning Officer shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected.

Comments

Validity of Votes :—Markings on the ballot papers though not at the correct place, but otherwise clearly indicating the voters' choice will not render the votes invalid. Where marking does not clearly show the choice, the vote will be rejected as invalid. Also a ballot paper containing marks from which the voters' identity can be established will be rejected.

10. *Validity of the ballot paper*:—Any ballot paper which bears any mark or signature of any of the voting member by which the voter can be identified or on which the mark (X) is placed against more than one name or in an ambiguous manner or which does not bear the official seal and signatures prescribed in sub-rule (3) of rule 9 shall be invalid.

11. *Preparation of record of proceedings and publication of result of election*:—Immediately after the meeting for election the Returning Officer shall:—

- (a) prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction, and also permit any member present at the meeting to affix his signature to such record, if he expresses his desire to do so.
- (b) publish on the Notice-Board of the Panchayat Samiti at its office a notice containing the names of the persons whose names are on the copy of such notice, and send a copy of such notice to the Government Central Office, the Official Gazette and the State Government.

12. *Packing and Preservation*.
Returning Officer shall then :
relating to the election, send a copy of such notice
a description of the contents, :
and the date therefor.

(2) The packets shall be
office of the Collector and shall then, unless otherwise
and shall then, unless otherwise
be destroyed.

PART III

ELECTION OF UP-PRADHAN OF PANCHAYAT SAMITI

13. *Election of Up-Pradhan of a Panchayat Samiti.*—

The Pradhan as the Returning Officer shall conduct the election of Up-Pradhan in the manner provided for in rules 3 to 12 of Part II by convening a meeting for the purpose.

PART IV

ELECTION OF A PRAMUKH OF A ZILA PARISHAD

1[14. *Election of a Pramukh of a Zila Parishad.*—(1)

Any Officer specially appointed by the State Government] under section 45 shall convene the meeting for the election of Pramukh of a Zila Parishad whereat he himself or any Officer nominated by him shall preside.

(2) The provisions of Part II relating to the election of the Pradhan of a Panchayat Samiti shall apply to the election of the Pramukh of a Zila Parishad subject to the variation that the references therein to 'Panchayat Samiti' 'Pradhan' wherever they occur, shall be construed to be references to 'Zila Parishad' and 'Pramukh' respectively.]

PART V

ELECTION OF AN UP-PRAMUKH OF A ZILA PARISHAD

15. *Election of an Up-Pramukh of a Zila Parishad.*—(1)

The Pramukh as Returning Officer shall conduct the election of the Up-Pramukh in the manner provided for in rules 3 to 12 of Part of II by convening a meeting for the purpose.

1. Substituted by Notification No. F. 2 (5) Plan/B/59/735 dated 1-1-92, published in Rajasthan Gazette, Part IV-C. Extraordinary, dated 1-1-62

(2) The above provisions shall apply to the election of an Up-Pramukh of a Zila Parishad subject to the following adaptations, namely:—

The references therein to the 'Panchayat Samiti' and 'Pradhan' wherever they occur shall be construed to be references to the 'Zila Parishad' and 'Up Pramukh' respectively.

¹[16. *Filling up of vacancies.*—Any vacancy in the Office of an Up-Pardhan Pradhan, Up-Pramukh and Pramukh shall be filled in accordance with the provisions of the foregoing rules.]

SCHEDULE No. 1

[Sub-rule (2) of rule 9 of the Rajasthan Panchayat Samitis and Zila Parishads Election of Pradhan, Up-Pradhan, Pramukh and Up-Pramukh Rules, 1959].

NOMINATION FORM FOR ELECTION AS
PRADHAN OF Panchayat Samiti
UP-PRADHAN OF Panchayat Samiti
PRAMUKH OF Zila Parishad
UP-PRAMUKH OF Zila Parishad

1. Name of the Panchayat Samiti/Zila Parishad.
2. Full name of the candidate.
3. Father's or husband's name.
4. Age.
5. Sex.
6. Address.

1. Substituted by item 3 (d) of Notification No. F. 2 (5) /B/59 dated 7-12-63, published in Rajasthan Gazette, Part I dated 7-12-60.

7. Full name and address of the proposer.

8. Full name and address of the seconder.

1. <i>Signature of the Proposer.</i>	2. <i>Signature of the Secunder.</i>
<i>Date.</i>	<i>Date.</i>
<i>Place.</i>	<i>Place.</i>

Candidates' declaration

1. the above named candidate, give my consent to this nomination. ¹[× ×]

Date.

Signature of the candidate.

Place.

Endorsement by the Returning Officer

Serial Number.

This nomination paper was presented to me by....(name)
at.....(date and hour).

Date.

Signature of the Returning Officer.

Place.

ORDER OF THE RETURNING OFFICER

Accepted/Rejected.....

Reasons for rejection.....

Date.

Signature of the Returning Officer.

Place

Received nomination paper of Shri/Shrimati.....
for election as Pradhan/Up-Pradhan/Pranukh/Up-Pramukh
of Panchayat Samiti/Zila Parishad, proposed and seconded
by (1).....and (2).....respectively
which was presented to me at.....(place)
at(time) this day of.... 19.....
by Shri

Signature of the Returning Officer.

SCHEDULE II

(Sub-rule (5) of Rule 4 of the Rajasthan Panchaya Samitis and Zila Parishads Election of Pradhan, Up-Pradhan, Pramukh and Up-Pramukh Rules, 1959)

List of candidates proposed for nomination of election as Pradhan/Up-Pradhan/Pramukh/Up-Pramukh of Panchayat Samiti/Zila Parishad,.....

S. No.	Name & description of candidate.	Address of candidate.	Remarks.
1.			
2.			
3.			
4.			
5.			
6.			
Date.		Signature of the Returning Officer.	
Place.		_____	

SCHEDULE III

(Rule 6 of the Rajasthan Panchayat Samitis and Zila Parishads Election of Pradhan, Up-Pradhan, Pramukh and Up-Pramukh Rules, 1959)

S. No.	Name & description of candidate.	Address of candidate.	Remarks.
1.			
2.			
3.			
4.			
5.			
6.			
Date.			
Place.			

SCHEDULE IV

(Sub-rule (2) of the Rule 9 of the Rajasthan Panchayat Samitis and Zila Parishads Election of Pradhan, Up-Pradhan, Pramukh and Up-Pramukh Rules, 1959)

BALLOT PAPER

Panchayat Samiti/Zila Parishad.... ..

Signature and seal of the Returning Officer.

Serial Number	Name of the candidate with the name of father or husband and residence.	For Mark (x) by voter.
------------------	--	---------------------------

- 1.
 - 2.
 - 3.
 - 4.
 - 5.
 - 6.
 - 7.
 - 8.
 - 9.
 - 10.
-

THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA PARISHADS (ELECTION PETITI- ON) RULES, 1959.

[Notification No. F. 45 (173) (110) (Coord.)/DD/59, dated 22-9-1959, published in Rajasthan Gazette, Extraordinary, part IV-C, dated 22-9-59.]

In exercise of the powers conferred by section 13 and sub-section (5) of section 45 read with sub-section (1) of section 79 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959), the State Government hereby makes the following rules, namely:—

1. *Short title and commencement*:—These rules may be called the Rajasthan Panchayat Samitis, ¹[X] and Zila Parishads ¹ [X] (Election Petition) Rules, 1959, and shall come into force from the date of their publication in the Official Gazette.

Amendments

Rule 1.—These rules have been amended three times since their publication in the Official Gazette viz. on 30. 6. 60, 12. 12. 60 and 28. 12. 61.

2. *Definitions*:—In these rules the context otherwise requires:—

(1) “Act” means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959);

1. Omitted by Notification No. PD/344/PA/60, dated 28. 6. 60, published in Rajasthan Gazette, Part IV-C, Extraordinary, 30-6-60.

(2) "Candidate" means a person who has been nominated as a candidate ¹[at any co-option of members or] at any election of Pradhan, Up-Pradhan, Pramukh or Up-Pramukh, as the case may be, and includes a person, who when an election ²[or Co-option] is in contemplation, holds himself out as a prospective candidate thereat and is subsequently nominated as a candidate at such election ³[or co-option.]

(3) "Electoral Rights" means the right of a person to stand or not to stand as, or to withdraw from being a candidate or to vote or refrain from voting at an election ³[or co-option.]

(4) "Judge" means:—

(a) The District Judge sitting at the place where the principal office of the panchayat Samiti or Zila paishad, as the case may be, is situated, or

(b) where there is no such District Judge, the Civil Judge so sitting, or

(c) where there is no such Civil Judge also, ⁴[any other Judge of Civil Court] specially empowered in this behalf by the District Judge having jurisdiction.

(5) "Member" means a member of Panchayat Samiti/ Zila Parishad ;

1. Inserted by Notification No. PD/344/PA/60, dated 28. 6. 60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 30. 6. 60.

2. Inserted by item 2 (ii)-ibid.

3. Inserted by item 2 (iii)-ibid.

4. Substituted. by item 1 of Notification No. F. 2 (6) Plan/B/59, dated 9-12-60 published in Rajasthan Gazette, Part IV-C, dated 12-12-60.

(6) "Pradhan" means Pradhan of a Panchayat Samiti ;

(7) "Pramukh" means Pramukh of a Zila Parishad ;

(8) "Up-Pradhan" means Up-Pradhan of a Panchayat Samiti ;

(9) "Up-Pramukh" means Up-Pramukh of a Zila Parishad ;

(10) Words and expressions used but not defined in these rules shall have the meaning assigned to them in the Act.

3. Grounds on which election may be called in question.—

The election of a Pradhan, Up-Pradhan, Pramukh, or Up-Pramukh may be questioned by any member of the Panchayat Samiti or the Zila Parishad, as the case may be, by an election petition on one or more of the following grounds, namely :—

(a) that such person had committed during or in respect of the election proceedings a corrupt practice as specified in rule 4 ;

(b) that such person was declared to be elected by reason of the improper rejection or admission of ¹[any nomination] or for any other reason was not duly elected by a majority of lawful votes ; or

(c) that such person was disqualified for election as Pradhan, Up-Pradhan, Pramukh or Up-Pramukh, as the case may be, under the provisions of the Act,

²[(d) that the result of the election, in so far it concerns returned candidate, has been materially affected—

1. Substituted by item 2 of Notification No. F.2(6) Plan/B/59, date 9-12-60 published in Rajasthan Gazette, Part IV-C, Extra 12-12-60.

2. Inserted by item 3-ibid.

(i) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(ii) by any non-compliance with the provisions of the Act or any rules made thereunder.]

Comments

An election or a co-option of a member can be challenged by any member of the Panchayat Samiti and Zila Parisad or by a candidate for such election or co-option by filing an election petition before a judge, on any of the grounds stated in this rule. After the amendment of Sec. 71A. of the Act, a candidate can also file an election petition.

4. *Corrupt practices.*—The following shall be deemed to be corrupt practices for the purpose of an election of Pradhan, Up-Pradhan, Pramukh or Up-Pramukh, as the case may be, namely :—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or by any other person on his behalf of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

(a) a person to stand or not to stand as, or to withdraw from being, a candidate ¹[× × ×] or,

(b) an elector to vote or refrain from voting at such election ;

or as a reward to :—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; ¹[× × ×] or

(ii) an elector for having voted or refrained from voting.

1. Omitted vide item 4 of Notification No. 2 (6) Plan/B/59 of 9-12-60 published in Rajasthan Gazette, Part IV-C, Extraordinary of 12-12-60.

Explanation.—For the purposes of this clause, the term “gratification” is not restricted to pecuniary gratification or gratification estimable in money, and it includes all forms of employment for reward; but it does not include the payment of any expenses bonafide incurred at, for the purpose of, such election.

(2) Undue Influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person on his behalf, with the free exercise of any electoral right :

Provided that :—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who :—

(i) threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or of expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause

(b) a declaration of public action with intent to interfere shall be deemed to be within the meaning of this clause.

(3) The systematic appeal by a candidate or by any other person on his behalf to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as, the national flag or the national emblem, for the furtherance of the prospects of that candidate's election.

(4) The publication by a candidate or by any other person on his behalf of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal or retirement from contest of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on his behalf for the conveyance of any elector (other than the candidate himself, any member of his family), to or from any polling station or place fixed for the poll :

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint cost for the purpose of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power :

Provided further that the use of any public transport vehicle or vessel or railway carriage by any elector at his own cost for the purpose of going or coming from any such polling station or place shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person on his behalf any assistance (other than the giving of vote) for the furtherance of the prospects of the candidate's election from any person in the service of the Government and belonging to any of the following classes, namely :—

(a) Gazetted Officer;

(b) stipendiary judges and magistrates;

(c) members of the armed forces of the Union;

(d) members of the police force;

(e) excise officers;

(f) revenue officers including village accountants such as patwaries and the like but excluding other village officers.

5. *Form and presentation of petitions.*—(1) The petition shall be presented to the Judge within 30 days after the day on which the result of the election is announced and shall specify the ground or grounds on which the election of the respondent is questioned and shall briefly describe the circumstances which may justify the election being questioned on such grounds. Every petition shall be accompanied by a treasury challan of Rupees Two Hundred and Fifty.

(2) The petition may be presented to the Judge by any member of the Panchayat Samiti or Zila Parishad, as the case may be.

(3) The person whose election is questioned, and where the petition claims that any other candidate shall be declared in place of such person, every unsuccessful candidate who has polled more votes than such candidate, shall be made a respondent to the petition.

6. *Rights of candidates whose election is questioned.*—Every respondent may defend his election on any ground on which it may be open to him legally to do so and give evidence to prove that any person in respect of whom a claim is made that such person be declared elected in his place or in priority to him, should not be declared so elected in the same manner as if he had presented a petition against the election of such person.

7. *Procedure.*—Except in so far as may be inconsistent or otherwise provided by the Act or any rule made thereunder, the procedure provided in the Code of Civil Procedure, 1908, in regard to suits, shall in so far as it can be made applicable, be followed in the hearing of election petition :

Provided that :—

(a) any two or more election petitions relating to the election of the same person may be heard together;

(b) the Judge shall not be required to record the evidence in full but shall make a memorandum of evidence sufficient in his opinion for the purpose of deciding the case;

(c) the Judge may, at any stage of the proceedings, require the petitioner to give further security for the payment of the costs incurred or likely to be incurred by any respondent;

(d) the Judge, for the purposes of deciding any issue, shall only be bound to require the production of, or to

receive, so much evidence, oral or documentary, as he considers necessary;

(c) there shall be no appeal either on a question of law or fact, and no application in revision against or in respect of the decision of the Judge; and

(f) no witness or other person shall be required to state for whom he has voted at an election.

8. *Powers of the Judge hearing petition.*—(1) The Judge hearing an election petition shall have the same powers and privileges as a Judge of a Civil Court when trying a suit and may, for the purpose of serving any notice or issuing any process or doing any other such thing, employ any officer, clerk, or peon attached to his Court.

(2) Any order as to costs passed by the Judge shall be executed by him on application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money made by himself in a suit.

9. *Findings of the Judge.*—(1) If the Judge, after making such enquiry as he deems necessary, finds in respect of any person whose election is called in question by a petition, that his election was valid, it shall dismiss the petition as against such person and may award costs at his discretion.

(2) If the Judge finds that election of any person was invalid, he shall either :—

(a) declare a casual vacancy to have been created, or

(b) declare another candidate to have been duly elected, whichever course appears, in the particular circumstances of the case, the more appropriate, and in either case may award costs at his direction.

(3) In the event of the Judge declaring a casual vacancy to have been created, he shall direct—

(a) the Collector in case the petition was against an election of Pradhan of a Panchayat Samiti, or

(b) the Pradhan in case the petition was against an election of Up-Pradhan of a Panchayat Samiti,

(c) the ¹[Collector] in case the petition was against the election of Pramukh of a Zila Parishad, and

(d) the Pramukh in case the petition was against the election of Up-Pramukh of a Zila Parishad,

to take proceedings for filling the vacancy.

Notwithstanding any thing contained in the preceding rule, if the Judge in the course of hearing an election petition, is of the opinion that the evidence disclosed that corrupt practices have prevailed at the election proceedings in question to such an extent as to render it advisable to set aside the whole proceedings, he shall pass an order to this effect and shall direct the concerned authorities to take measures for holding fresh election proceedings.

Explanation.—In this rule the expressions “election proceedings in question” and the whole “whole proceedings” shall include all proceedings in respect of election of Pradhan, Up-Pradhan, Pramukh or Up-Pramukh, as the case may be (inclusive of nomination and declaration of the result of election).

¹[10. *Disputes as to Co-option etc.*—The provisions of

1. Substituted by Section 4 (b) of Rajasthan Act, No. 8 of 1962, published in Rajasthan Gazette, Extraordinary, dated 23-4-62.

1. Substituted by Notification No. F. 2(6) Plan/B/59 dated 9-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, date 12-12-60.

rules 3 to 9 shall *mutatis mutandis* apply to the co-option of a member of a Panchayat Samiti under section 11 or section 18 or to the election or co-option of a member or Chairman of a standing Committee of a Panchayat Samiti under section 20 and the co-option of a member of a Zila Parishad under section 44 or clause (iv) of sub-section (2) of section 46 of the Act.]

¹[Provided that the election petition under this rule may also be presented by any candidate at such co-option].

Comments

According to rule 3 the election of Pramuks or Up-pramuks may be called by any member of the Panchayat Samiti or case may be. The proviso which has been added provides that disputes as to co-option of a candidate also, at such co-option.

The addition of a proviso to section 11 authorizes the filing of an election petition at any election or co-option.

**THE RAJASTHAN PANCHAYAT SAMITIS (ELECTION
OF MEMBERS OF STANDING COMMITTEE)
RULES, 1959.**

[*Notification No. F. 45 (173) (184) (Coord.) DD/59/1561,
dated 25-9-1959, published in Rajasthan Gazette, Extra-
ordinary, Part IV-C, dated 26-9-1959.*]

In exercise of the powers conferred by sub-section (1) of section 79 read with sub-section (3) of section 20 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959), the State Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called the Rajasthan Panchayat Samitis (Election of Members of Standing Committee) Rules, 1959.

(2) They shall come into force from the date of their publication in the Official Gazette.

Amendments

These rules have been amended four times since their publication in the Official Gazette. The last notification was published on 7. 2. 63.

2. *Definition.*—In these rules, unless the context otherwise requires—

(1) “Act” means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959)

(2) ‘Clear Days’ include Sundays and Holidays but does

not include the day of the meeting and the day of the receipt of the notice by the person to whom it is addressed.

(3) "Panchayat Samiti" means a Panchayat Samiti constituted under the Act.

(4) "Pradhan" means the Pradhan of a Panchayat Samiti.

(5) "Standing Committee" means a Standing Committee of a Panchayat Samiti constituted under sub-section (7) or sub-section (2) of section 20 of the Act.

3. *Meeting for election of members of a Standing Committee.*—(1) The election of members of Standing Committee shall be held in the office of the Panchayat Samiti at a meeting to be convened by the Pradhan.

(2) Such meeting shall be presided by the Pradhan in case he is not standing as a candidate for the election of a member of a Standing Committee.

(3) In case the Pradhan intends to stand as a candidate for election as a member of a Standing Committee, a meeting of the Panchayat Samiti shall be called by the Pradhan, after giving notice of four clear days, for electing one of the members of the Panchayat Samiti not standing as a candidate for the election as a member of a Standing Committee to conduct the election of members of the Standing Committee.

(4) At such meeting, election shall be by majority of votes of the members present by show of hands and the member so elected shall be referred to as the "Presiding member".

¹[(5) If a meeting for election of the members of a Standing Committee is not convened by the Pradhan under sub-

1. Inserted by Notification No. F. 2 (7) Plan/B/59/11496/PA/60, dated 29-12-60, published in Rajasthan Gazette, Part IV-C. Ordinary, dated 2-3-61.

rule (1) and the Standing Committee is not constituted within a period of three months from the date of the constitution or re-constitution of the Panchayat Samiti, the Collector of the District shall convene a meeting of the members of the Panchayat Samiti for such election. The Collector or the person, appointed by him in this behalf, shall preside over such meeting and exercise all the functions of the Pradhan under these rules for constituting the Standing Committee, but he shall not have power to vote.]

4. *Notice of the meeting for election.*—(1) A notice of the date and hour of such meeting shall be given to the members of a Panchayat Samiti other than its associate members of not less than seven clear days previous to the day of the meeting.

(2) Such notice shall state :—

(a) the place and date on which and the hours between which the nomination papers shall be filed,

(b) the place and date on which and the hours between which the nomination papers will be taken up for scrutiny,

(c) the place and date on which and the hours between which the votes of the members will be taken, should there be a poll.

(3) The notice shall be sent by post or by such other mode as the Pradhan/¹[Presiding Member] may consider expedient, to every member of the Panchayat Samiti other than its associate members at his ordinary place of residence.

(4) Such notice shall be published by affixing it on the notice board of the Panchayat Samiti at its office.

1. Inserted by Notification No. F. 2 (7) Plan/B/59/11496/PA/60, dated 29-12-60, published in Rajasthan Gazette, 'Part IV-C, Ordinary, dated 2-3-61.

Comments

Date, Time and place must be adhered to:—The date, time and place specified in the notice can not be altered. Last minute change may give valid cause for an election petition.

5. *Filing of nomination paper.*—(1) The nomination of every candidate shall be made by means of a nomination paper in the form prescribed in Schedule I.

(2) Every nomination paper shall be signed by two members of the Panchayat Samiti as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for election.

(3) Each candidate shall be nominated by a separate nomination paper.

(4) Every nomination paper shall be presented to the Pradhan/Presiding member by the candidate or his proposer or seconder on the date, at the place and during the hours specified in the notice for filing nomination papers.

(5) Immediately after the time for receipt of nomination papers is over, the Pradhan/Presiding member shall cause to be published a list, in the form prescribed in Schedule II, containing the names of the candidates whose nominations have been received under the preceding sub-rule by affixing it on the Notice Board of the Panchayat Samiti at its office.

6. *Scrutiny of* :
appointed for the scrut
proposer and seconder n
specified in the notice i
and the Pradhan/Presi
all reasonable facilities to
the candidates which hat

¹[(2) The Pradhan/Presiding member shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may, either on such objection, or on his own motion and, after such summary enquiry, if any, as he may deem necessary, reject any nomination on the ground that the proposer or seconder is a person who is not a member of a Panchayat Samiti. ²[or that the candidate suffers from disqualification mentioned in section 20 of being already a member of any other standing committee:]

³[Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder, or of any other particular relating to the candidate or his proposer or seconder, if the identity of the candidate, proposer or seconder, as the case may be, can otherwise be established beyond reasonable doubt.

(3) The Pradhan/Presiding member shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of reasons for such rejection.

(4) The decision of the Pradhan/Presiding member under sub-rule (2) shall be final.

Note

Kindly see comments under the corresponding provision of the Rajasthan Panchayat and Nyaya Panchayat Election Rules, 1960.

7. *Publication of the list of nominated candidates* :—The Pradhan/Presiding member ²[shall before the time of the meet-

-
1. Substituted by Notification No. F. 2 (7) Plan/B/59, dated 18-4-61, published in Rajasthan Gazette, Part IV—C, Ordinary, dated 25-5-61
 2. Substituted by Notification, No. F. 2 (7) Plan/B/59/11496/AA/60, dated 29-12-60, published in Rajasthan Gazette Part IV-C, Ordinary, dated 2-3-61.
 3. Inserted by Notification No. F. 2(7) Plan/C/59/41392 of dated 26-7-61, published in Rajasthan Gazette, Part IV-C, dated 26-7 61.

ing for election] cause to be published a list containing the names of the validly nominated candidates in the form prescribed in Schedule III by affixing it on the Notice Board of the Panchayat Samiti at its office.

8. *Withdrawal of candidature*:—A candidate may withdraw his candidature any time before the commencement of the poll by giving a notice in writing to that effect to the Pradhan/Presiding member.

9. *Procedure after publication of the list of validly nominated candidates*:—(1) If the number of the candidates is equal to the number of vacancies, the Pradhan/Presiding member shall declare all such candidates duly elected.

(2) If the number of the candidates is less than the number of the vacancies, the Pradhan/Presiding member shall declare all such candidates duly elected and shall adjourn the meeting for election to another date to fill up the remaining vacancies in accordance with the procedure prescribed in these rules.

(3) If the number of the candidates exceeds the number of the members to be elected, an election shall be held by secret ballot and the votes of the members present at the meeting shall be taken.

10. *Voting and result of election*:—(1) The Pradhan/Presiding member shall cause such arrangements to be made as will ensure the secrecy of the ballot.

(2) Every member wishing to vote shall be supplied with a ballot paper on which name of duly nominated candidates who have not withdrawn their candidature shall be printed, typed, cyclostylad or legibly written in Hindi in the alphabetical order of their names in the form prescribed in Schedule IV.

(3) The voter shall place a cross (X) in column (3) of the ballot paper, duly authenticated by seal and signatures of the Pradhan/Presiding member, against the name of the candidates for whom he wishes to vote with a red, blue or ordinary pencil :

Provided that if a voter is illiterate, or by reason of infirmity, is unable to vote in the above manner, the Pradhan Presiding member shall, at the request of such voter, make the marks on the ballot paper according to the directions of such voter and shall cause the ballot paper so marked to be placed in the ballot box.

(4) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Pradhan/Presiding member.

(5) The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked.

(6) Every person wishing to record his vote shall do so in person and not by proxy.

(7) The Pradhan/Presiding member shall, after the voting is over—

(a) count the votes in the presence of such members of the Panchayat Samiti as may be present and declare the candidates up to the number of the vacancies who are found to have secured the largest number of valid votes to have been duly elected,

(b) in the event of there being an equality of votes between the candidates, the Pradhan/Presiding member shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected.

¹[10A. *Continuance in more than one standing committee.*—

[(1)] A member who is elected to two or more standing committees shall immediately within three days of the declaration of the result inform the chairman, the name of the standing committee on which he elects to continue and shall resign from the other standing committees failing which he shall be deemed to have vacated his membership from all the standing committees to which he has been elected.]

[(2)] A member who is already a member of more than one standing committee (constituted before 28th. July 1961) shall, within one month from the date of the publication of the notification in the Official Gazette, inform the Vikas Adhikari the name of any one of the committees on which he elects to continue and shall resign from the other standing committee or committees failing which he shall be deemed to have vacated his membership from all the standing committees to which he had been elected]

11. *Validity of the ballot paper.*—Any ballot paper which bears any mark or signature of any of the voting member by which the voter can be identified or on which the mark (X) is placed against more candidates than the number of vacancies or all the marks are placed in an ambiguous manner or which does not bear the official seal and signatures of the Pradhan/Presiding member shall be invalid.

12. *Preparation of record of proceedings and publication of result of election.*—Immediately after the meeting for election, the Pradhan/Presiding member shall :—

(a) prepare a record of the proceedings at the meeting and sign it, attesting his initials on every correction/made

1. Inserted by Notification No. F. 2 (7) Plan/B/59/41392, dated 26-7-61, published in Rajasthan Gazette, Part IV-C, Supplement No. 26, dated 28-9-61.

2. Inserted by Notification No. F. 2 (7) Plan/B/59/69212 of 22-12-61, published in Rajasthan Gazette, part IV-C, Ordinary dated 22-12-1961.

therein, and also permit any member of the Panchayat Samiti present at the meeting to affix his signatures to such record, if he expresses his desire to do so;

(b) publish on the Notice Board of the Panchayat Samiti at its office a notification signed by him stating names of the persons elected as members of the particular Standing Committee and send a copy of such notification to the Collector concerned and the State Government.

13. *Packing and preservation of election record.*—(1) The Pradhan/Presiding member shall then make up into a packet the ballot papers and other papers relating to the election, seal up the packet and note thereon a description of the contents, the election to which it relates and the date therefor.

(2) The packet shall be retained in safe custody in the office of the Collector concerned for a period of three years and shall then unless otherwise directed by a competent court, be destroyed.

¹[14. *Resignation by a member of a Standing Committee.*—Any member of a Standing Committee may resign his office as such member by giving notice in writing to the Vikas Adhikari. Such notice shall be attested by a Gazetted Officer of the Government and shall be handed over personally to the Vikas Adhikari. Resignation so tendered shall take effect on and from the date on which it is handed over to the Vikas Adhikari.

15. *Procedure for filling up Vacancies.*—Any vacancy caused by resignation, retirement, removal, death or otherwise of any member of a Standing Committee shall be filled up in accordance with the provisions contained in the foregoing rules for the election of members of a Standing Committee.]

1. Added by Notification No. F. 4/PS/R/ (5) 37/62/1738, dated 23-1-63, published in Rajasthan Gazette, Part IV-C, Ordinary, dated 5-12-63.

SCHEDULE No. I

[Sub-rule (1) of rule 5 of the Rajasthan Panchayat Samitis
(Election of Members of Standing Committee) Rules, 1959.]

NOMINATION FORM FOR ELECTION OF A MEMBER
OF A STANDING COMMITTEE OF A
PANCHAYAT SAMITI.

1. Name of the Panchayat Samiti.
2. Description of the Standing Committee.
3. Full name of the candidate.
4. Father's or husband's name.
5. Age.
6. Sex.
7. Address.
8. Full name and address of the proposer.
9. Full name and address of the Secunder.

1. Signature of the proposer. 2. Signature of the Secretary.

Date. Date.

[illegible]

Candidate's declaration

I, the above named candidate, give my nomination.

$$^1[\times \times]$$

Place.

Date.

1. Omitted by Notification No. F. 2. 29-12-60, published in Rajasthan dated 2-3-61.

Endorsement by the Pradhan/Presiding member

Serial Number.

This nomination paper was presented to me by _____
(name) at _____ (date and hour).

Date.

Signature of the Pradhan/Presiding
member.

Place.

Order of the Pradhan/Presiding member

Accepted/Rejected _____

Reasons for rejection _____

Signature of the Pradhan/Presiding member.

Received nomination paper of Shri/Shrimati _____
for election as a member of _____ Standing Committee
of _____ Panchayat Samiti, proposed and seconded by
(1) _____ and (2) _____ respectively which
was presented to me at _____ (Place) at _____
(time) this _____ day of _____ 19 . by
Shri _____

Signature of the Pradhan/Presiding member.

SCHEDULE II

[*Sub-rule (5) of the rule 5 of the Rajasthan Panchayat Samitis
(Election of members of Standing Committee) Rules, 1959.*]

List of candidates proposed for nomination of election as
members of _____ Standing Committee of _____ Panchayat
Samiti.

S. No.	Name and description of candidate.	Address of candidate.	Remarks.
1.			
2.			

- 3.
- 4.
- 5.
- 6.

Date.

Signature of the Pradhan/

Place.

Presiding member.

SCHEDULE III

[*Rule 7 of the Rajasthan Panchayat Samitis (Election of Members of Standing Committee) Rules, 1959*]

List of candidates validly nominated for election as members of ————— Standing Committee of ————— Panchayat Samiti.

S. No.	Name and description of candidates.	Address.	Remarks.
1	2	3	4

1.

2.

3.

4.

5.

6.

Date.

Si

Place.

SCHEDULE IV

[*Sub-Rule (2) of Rule (10) of the Rajasthan Panchayat Samitis (Election of members of Standing Committee) Rules, 1959*]

Ballot paper

For election of members of the ——— Standing Committee
of the ——— Panchayat Samiti.

Signature and seal of the Pradhan /
Presiding member.

S. No.	Name of the candidate with the name of father or husband and residence.	Mark (×) by voter
1	2	3
1.....		
2.....		
3.....		
4.....		
5.....		
6.....		
7.....		
8.....		
9.....		
10.....		

THE RAJASTHAN PANCHAYAT SAMITIS (CO-OPTION OF MEMBERS OF STANDING COMMITTEE) RULES, 1959.

[Notification No. F. 45 (173) (184) (Coord) DD/59 (1961) dated 12. 9. 1959, published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 26.9. 1959].

In exercise of the powers conferred by sub-section (1) of section 79 read with clause (ii) of the proviso to sub-section (3) of section 20 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959), the State Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called Rajasthan Panchayat Samitis (Co-option of Members of Standing Committee) Rules, 1959.

(2) They shall come into force on the date of their publication in the official Gazette.

Amendments

These rules have been amended publication in the Official Gazette. Published in the Rajasthan Gazette, Part I 4-10-61 (Extraordinary) and 7-2-63.

2. *Definitions:*—In these rules—
requires—

not include the day of the meeting and the day of the receipt of the notice by the person to whom it is addressed.

(3) "Member" means the member of a Panchayat Samiti other than an associate member.

(4) "Panchayat Samiti" means a Panchayat Samiti constituted under Act.

(5) "Pradhan" means the Pradhan of a Panchayat Samiti.

(6) "Standing Committee" means a Standing Committee of a Panchayat Samiti constituted under sub-section (1) or sub-section (2) of section 20 of the Act.

¹[2A. *Determination of number of persons to be co-opted:—* The Panchayat Samiti shall by resolution determine the number of persons to be co-opted for each of the Standing Committees before a meeting for co-option of member of a Standing Committee is convened under rule 3.]

3. *Meetings for co-option of members of a Standing Committee—*²[(1)] The election for co-option of members of a Standing Committee shall be held in the office of the Panchayat Samiti at a meeting to be convened and to be presided by the Pradhan.

³[(2) If a meeting for the co-option of the members of the Standing Committee, where it has been decided to co-opt some person, is not convened by

1. Inserted by Notification No. F 2 (7)/Plan/B/59/PA/1530/60, dated 29-12-60, published in Rajasthan Gazette, Part IV-C, Ordinary, dated 2-3-61.

2. Renumbered by Notification No. F 2 (27)/plan/B/59/54079, dated 3-10-61, published in Rajasthan Gazette, part IV-C, Extra-ordinary dated 4-10-61.

3. Inserted by item No.2 of Notification No. F. 2(7) /Plan/B/59/54079 dated 3-10-61, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 4-10-61.

the Pradhan under sub-rule (1) and the Standing Committee is not constituted within a period of three months from the date of the constitution or reconstitution of the Panchayat Samiti, the Collector of the district shall convene a meeting of the members of the Panchayat Samiti for such co-option. The Collector or, the person, appointed by him in this behalf, shall preside over such meeting and exercise all the functions of the Pradhan under these rules for constituting a Standing Committee except that he shall have no power to vote.]

4. *Notice of the meeting of election for co-option of members of a Standing Committee.*—(1) A notice of the date and hour of such meeting shall be given to the members of not less than seven clear days previous to the day of the meeting.

(2) Such notice shall state :—

- (a) the number of persons to be co-opted,
- (b) the qualification of the persons to be co-opted as required under clause (ii) of the proviso to sub-section (3) of section 20 of the Act,
- (c) the place and date on which and the hours between which the nomination papers shall be filed,
- (d) the place and date on which and the hours between which the nomination papers will be taken up for scrutiny,
- (e) the place and date on which and the hours between which the votes of members will be taken, should there be a poll.

(3) The notice shall be sent by post or by such other mode as the Pradhan may consider expedient, to every member at his ordinary place of residence.

(4) Such notice shall be published by affixing it on the notice board of Panchayat Samiti at its office.

5. *Filing of nomination paper*.—(1) The nomination of every candidate shall be made by means of a nomination paper in the form prescribed in Schedule I.

(2) Every nomination paper shall be signed by two members as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for co-option.

(3) Each candidate shall be nominated by a separate nomination paper.

(4) Every nomination paper shall be presented to the Pradhan by the candidate or his proposer or seconder on the date, at the place and during the hours specified in the notice for filling nomination papers.

(5) Immediately after the time for receipt of nomination papers is over, the Pradhan shall cause to be published a list, in the form prescribed in Schedule II, containing the names of the candidates whose nominations have been received under the preceding sub-rule by affixing it on the Notice Board of the Panchayat Samiti at its office.

6. *Scrutiny of nomination papers*.—(1) On the date appointed for scrutiny of nominations, the candidate, his proposer and seconder may attend at such place and time as is specified in the notice for the scrutiny of nomination papers and the Pradhan shall give such persons all reasonable facilities to examine the nomination papers of all the candidates which have been received as aforesaid.

(2) The Pradhan shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may, either on such objection, or on his own motion and, after such summary enquiry, if any, as he may deem necessary, reject any nomination on any one or more of the following grounds :—

(a) that the candidate is not eligible for co-option as a member of the Standing Committee under the provisions of the Act,

(b) that the candidate suffers from any of the disqualifications mentioned in section 15 of the Act, or

(c) that the proposer or seconder is a person who is not a member :

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description, of his name or of the name of his proposer or seconder, or of any other particulars relating to the candidate or his proposer or seconder, if the identity of the candidate, proposer or seconder, as the case may be, can otherwise be established beyond reasonable doubt.

(3) The Pradhan shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing, a brief statement of reasons for such rejection.

(4) The decision of the Pradhan under sub-rule (2) shall be final.

7. *Publication of the list of nominated candidates.*—The Pradhan ¹[shall before the time fixed for the meeting for elec-

1. Substituted by Notifica
29-12-60, published in
dated 2-3-61.

tion] cause to be published a list containing the name of the validly nominated candidates in the form prescribed in Schedule III, by affixing it on the Notice Board of the Panchayat Samiti at its office.

8. *Withdrawal of candidature.*—A candidate may withdraw his candidature any time before the commencement of the poll by giving a notice in writing to that effect to the Pradhan.

9. *Procedure after publication of the list of validly nominated candidates.*—(1) If the number of the candidates is equal to the number of vacancies, the Pradhan shall declare all such candidates duly co-opted.

(2) If the number of the candidates is less than the number of the vacancies, the Pradhan shall declare all such candidates duly co-opted and shall adjourn the meeting for co-option to another date to fill up the remaining vacancies in accordance with the procedure prescribed in these Rules.

(3) If the number of the candidates exceeds the number of the members to be co-opted, co-option by election shall be held by secret ballot and the votes of the members present at the meeting shall be taken.

10. ¹[*Voting*] *and result of election.*—(1) The Pradhan shall cause such arrangements to be made as well ensure the secrecy of the ballot.

(2) Every member wishing to vote shall be supplied with a ballot paper on which names of duly nominated candidates who have not withdrawn their candidature shall be printed, typed, cyclostyled or legibly written in Hindi in the alphabetical order of their names in the form prescribed in Schedule IV.

1. Substituted by item 3 of Notification No.F. 2(7) Plan/B/59/PA/60/1530 dated 29-12-60, published in Rajasthan Gazette. Part IV-C, Ordinary, dated 2-3-61.

(3) The voter shall place a cross mark (X) in column (3) of the ballot paper duly authenticated by the seal and signatures of the Pradhan against the name of the candidates for whom he wishes to vote with a red, blue or ordinary pencil :

Provided that if a voter is illiterate, or by reason of infirmity, is unable to vote in the above manner, the Pradhan shall at the request of such voter, make the marks on the ballot paper according to the directions of such voter and shall cause the ballot paper so marked to be placed in the ballot box.

(4) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Pradhan.

(5) The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked.

(6) Every person wishing to record his vote shall do so in person and not by proxy.

(7) The Pradhan shall, after the voting is over—

(a) count the votes in the presence of such members as may be present and declare the candidates up to the number of the vacancies who are found to have secured the largest number of valid votes to have been duly elected for co-option.

(b) In the event of there being an equality of votes between the candidates, the Pradhan shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected for co-option.

11. *Validity of the ballot paper* — Any ballot which bears any mark or signature of

ber by which the voter can be identified or on which the mark (X) is placed against more candidates than the number of vacancies or all the marks are placed in an ambiguous manner or which does not bear the official seal and signature of the Pradhan shall be invalid.

12. *Preparation of record of proceedings and publication of result of election for co-option.*—Immediately after the meeting for co-option by election, the Pradhan shall :—

(a) prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member present at the meeting to affix his signatures to such record if he expresses his desire to do so;

(b) publish on the Notice Board of the Panchayat Samiti at its office a notification signed by him stating names of the persons elected for co-option as members of the particular Committee and send a copy of such notification to the Collector concerned and the State Government.

13. *Packing and preservation of election record.*—The Pradhan shall then make up into a packet the ballot papers and other papers relating to the election for co-option, seal up the packet and note thereon a description of the contents, the election to which it relates and the date therefor.

(2) The packet shall be retained in safe custody in the office of the Collector concerned for a period of three years and shall then, unless otherwise directed by a competent court, be destroyed.

¹[14. *Resignation by a member of a Standing Committee.*—Any member of a Standing Committee may resign his

1. Added by Notification No. 4/PS/R/(5) 36/62, dated 23. 1. 63 published in Rajasthan Gazette, Part IV—C, dated 7-2-63.

office as such member by giving notice in writing to the Vikas Adhikari. Such notice shall be attested by a Gazetted Officer of the Government and shall be handed over personally to the Vikas Adhikari. Resignation so tendered shall take effect on and from the date on which it is handed over to the Vikas Adhikari.

15. *Procedure for filling up Vacancies.*—Any vacancy caused by resignation, retirement, removal, death or otherwise of any member of a Standing Committee shall be filled up in accordance with the provisions contained in the foregoing rules for the cooption of members of a Standing Committee.]

Comments

Kindly See comments on the corresponding provisions of the foregoing rules and of the Rajasthan Panchayat and Nyaya Panchayat Election Rules, 1961.

SCHEDULE I

[Sub-rule (1) of rule 5 of the Rajasthan Panchayat Samiti (Co-option of Members of Standing Committee) Rules, 1959]

NOMINATION FORM FOR ELECTION FOR CO-OPTION OF A MEMBER OF STANDING COMMITTEE OF A PANCHAYAT SAMITI

1. Name of the Panchayat Samiti.
2. Description of the Standing Committee.
3. Full name of the candidate.
4. Father's or husband's name.
5. Age.
6. Sex.
7. Address.

8. Full name and address of the Proposer.

9. Full name and address of the Seconder.

1. *Signature of the Proposer.*

2. *Signature of Seconder*

Date.

Date.

Place.

Place.

Candidate's declaration.

I, the above named candidate, give my consent to this nomination and hereby declare that I do not hold any of the disqualifications enumerated in Rajasthan Panchayat Samiti and Zila Parishads Act, 1959, and that I am qualified to be a candidate for election for co-option as a member of... .. Standing Committee of.....Panchayat Samiti under the provisions of the said Act.

Date.

Place.

Signature of the candidate.

Endorsement by the Pradhan.

Serial Number.

This nomination paper was presented to me by.....
(Name) at..... ..(date and hour).

ate.

lace.

Signature of the Pradhan.

Order of the Pradhan

Accepted/Rejected.....

Reasons for rejection.....

Date.

Place.

Signature of the Pradhan.

Received nomination paper of Shri/Shrimati.....for
election for co-option as a member of.....Standing Commi-

tee of.....Panchayat Samiti, proposed and seconded by
(1).....and (2).....respectively which was pre-
sented to me at..... (Place) at.....(time) this.....
day of.....19 by Shri.....

Signature of the Pradhan.

SCHEDULE II

*[Sub-rule (5) of rule 5 of the Rajasthan Panchayat Samitis Co-
option of Members of Standing Committee) Rules, 1959.]*

List of candidates proposed for nomination of election for
co-option as members of.....Standing Committee
of ..Panchayat Samiti.

S. No.	Name and description of candidates.	Address of candidates.	Remarks.
1.			
2.			
3.			
4.			
5.			
6.			

Place.

Date.

Signature of the Pradhan.

SCHEDULE III

*[Rule 7 of the Rajasthan Panchayat Samitis (Co-option
of Members of Standing Committee) Rules, 1959.]*

List of candidates validly nominated for election for co-
option as member of.....Stand
Panchayat Samiti.

**THE RAJASTHAN PANCHAYAT SAMITIS (ELECTION
OF CHAIRMAN OF STANDING COMMITTEE)
RULES, 1959.**

[Notification No. F. 45 (173) (184) Coord./D.D/59/1960,
published in Rajasthan Gazette, Extraordinary,
Part IV-C, dated 26-9-1959.]

In exercise of the powers conferred by sub-section (1) of section 79 read with sub-section (6) of section 20 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959), the State Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called the Rajasthan Panchayat Samitis (Election of Chairman of Standing Committee) Rules, 1959.

(2) They shall come into force from the date of their publication in the Official Gazette.

Amendments

These rules have
20-12-60, 20-9-61 and 7-1-62
the Official Gazette.

2. *Definitions.*—~~1~~
wise requires—

(3) 'Clear days' include Sundays and Holidays but does not include the day of the meeting and the day of the receipt of the notice by the person to whom it is addressed,

(4) 'Member' means the member of a Standing Committee,

(5) 'Panchayat Samiti' means a Panchayat Samiti constituted under the Act,

(6) 'Pradhan' means the Pradhan of a Panchayat Samiti,

(7) 'Standing Committee' means a Standing Committee of a Panchayat Samiti constituted under sub-section (1) or (2) of section 20 of the Act.

3. *Meeting for election of Chairman.*—¹[(1)] The election of a Chairman of a Standing Committee shall be held in the office of the Panchayat Samiti at a meeting to be convened and to be presided by the Pradhan.

²[(2)] If a meeting for the election of the Chairman of Standing Committee is not convened by the Pradhan under sub-rule (1) within a period of three months from the date of election of the members of that Standing Committee, the Collector shall convene a meeting of the members of the Standing Committee for such election. The Collector or the person appointed by him in this behalf shall preside over such meeting and exercise all the functions of the Pradhan under these rules for the election of the Chairman of the standing committee but he shall not have power to vote.]

1. Renumbered by Notification No. F. 2 (8) Plan/B/59 dated 1-9-61. published in Rajasthan Gazette, Part IV-C, Ordinary, dated 20-9-61.

2. Inserted by item 2-ibid.

4. *Notice of the meeting for election.*—(1) Notice of the date and hour of such meeting shall be given to the members of the Standing Committee of not less than seven clear days previous to the day of the meeting.

(2) Such notice shall state :—

(a) the place and date on which and the hours between which the nomination papers shall be filed,

(b) the place and date on which and the hours between which the nomination papers will be taken, up for scrutiny,

(c) the place and date on which and the hours between which the votes of the members will be taken, should there be a poll.

(3) The notice shall be sent by post or by such other mode as the Pradhan may consider expedient, to every member at his ordinary place of residence ¹[or by handing over to a member present at the Panchayat Samiti office.]

(4) Such notice shall be published by affixing it on the notice board of the Panchayat Samiti at its office.

5. *Filing of nomination paper*—(1) The nomination of every candidate shall be made by means of a nomination paper in the form prescribed in Schedule I.

(2) Every nomination paper shall be signed by two members as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for election.

(3) Each candidate shall be nominated by a separate nomination paper.

1. Inserted by Notification No. F. 2(7) Plan/B/59 dated 8-4-61, published in Rajasthan Gazette, Part IV-C, Ordinary, dated 18-5-61

(4) Every nomination paper shall be presented by the candidate or his proposer or seconder on the date, at the place and during the hours specified in the notice for filing nomination papers.

(5) Immediately after the time for receipt of nomination papers is over, the Pradhan shall cause to be published a list, in the form prescribed in Schedule II, containing the names of the candidates whose nominations have been received under the preceding sub-rule by affixing it on the Notice Board of the Panchayat Samiti at its office.

6. *Scrutiny of nomination papers.*—(a) On the date appointed for the scrutiny of nominations, the candidate, his proposer and seconder may attend at such place and time as is specified in the Notice for the scrutiny of nomination papers and the Pradhan shall give such persons all reasonable facilities to examine the nomination papers of all candidates which have been received as aforesaid.

¹[(2) The Pradhan shall then examine the nomination papers and shall hear and decide any objection raised in this behalf and may, either on such objection, or on his own motion and, after such summary enquiry as he may deem necessary, reject any nomination on the ground that the candidate or his proposer or seconder is not a member.]

(3) The Pradhan shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing, a brief statement of reasons for such rejection.

(4) The decision of the Pradhan under sub-rule (2) shall be final.

1. Substituted by Notification No. P-2/80, Plan B-50, dated 1.12.80, published in Rajasthan Gazette Part IV C, Extraordinary dated 1.12.80.

7. *Publication of the list of nominated candidates.*—The Pradhan ¹[shall before the time fixed for the meeting] for election, cause to be published a list containing the names of the validly nominated candidates in the form prescribed in Schedule III by affixing it on the Notice Board of the Panchayat Samiti at its office.

8. *Withdrawal of candidature.*—A candidate may withdraw his candidature any time before the commencement of the poll by giving a notice in writing to that effect to the Pradhan.

9. *Procedure after publication of the list of validly nominated candidates.*—

(1) If there is only one duly nominated candidate, there shall be no poll and the candidate so nominated shall be declared to have been duly elected.

(2) If there are two or more such candidates, an election shall be held by secret ballot and votes of the members present at the meeting shall be taken.

10. *Voting and result of election.*—(1) The Pradhan shall cause such arrangements to be made as will ensure the secrecy of the ballot.

(2) Every member wishing to vote shall be supplied with a ballot paper on which names of duly nominated candidates who have not withdrawn their candidature shall be printed, cyclostyled or legibly written in order of their names in the following order:

(3) The voter shall place his mark on the ballot paper, duly attested by the Pradhan.

1. Substituted (by Notification No. 12-12-60, published in Rajasthan Gazette, 12-12-60.

of the Pradhan, against the name of the candidates for whom he wishes to vote with a red, blue or ordinary pencil :

Provided that if a voter is illiterate, or by reason of infirmity is unable to vote in the above manner, the Pradhan shall, at the request of such voter, make the mark on the ballot paper according to the direction of such voter and shall cause the ballot paper so marked to be placed in the ballot box.

(4) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Pradhan

(5) The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being un-locked.

(6) Every person wishing to record his vote shall do so in person and not by proxy.

(7) The Pradhan shall after the voting is over.—

(a) count the votes in the presence of such members as may be present and declare the candidate securing the largest number of valid votes to have been duly elected.

(b) In the event of there being an equality of votes between the candidates, the Pradhan shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected.

11. *Validity of ballot paper.*—Any ballot paper which bears any mark or signature of any of the voting member by which the voter can be identified or on which the mark (X) is placed against more than one name or in an ambiguous manner or which does not bear the official seal and signature of the Pradhan shall be invalid.

12. *Preparation of record of proceedings and publication of result of election.*—Immediately after the meeting for election the Pradhan shall :—

(a) Prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member present at the meeting to affix his signature to such record if he expresses his desire to do so;

(b) publish on the Notice Board of the Panchayat Samiti at its office a notification signed by him stating name of the person elected as Chairman and send a copy of such notification to the Collector concerned and the State Government.

13. *Packing and preservation of election record.*—(1) The Pradhan shall then make up into packets the ballot papers and other papers relating to the election, seal up the packets and note thereon a description of the contents, the election to which they relate and the date thereof.

(2) The packets shall be retained in safe custody in the office of the Collector concerned for a period of three years and shall then, unless otherwise directed by a Competent Court, be destroyed.

¹[14. *Production and inspection of election papers.*—While in the custody of the Collector, the packets of election papers shall not be opened and their contents shall not be inspected by or produced before, any person or authority except under the order of a competent court.]

²[15. *Resignation by a Chairman of a Standing Committee.*—A Chairman of a Standing Committee may resign his

1. Inserted by Notification No. F. 2 (8) Plan/B/59 II, dated 9-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.

2. Added by Notification No. F. 4/PS/R/(5)/38/62/1740, dated 23-1-63, published in Rajasthan Gazette, Part IV

office as such Chairman by giving notice in writing to the Vikas Adhikari. Such notice shall be attested by a Gazetted Officer of the Government and shall be handed over personally to the Vikas Adhikari. Resignation so tendered shall take effect on and from the date on which it is handed over to the Vikas Adhikari.

16. *Procedure of filling up Vacancy.*—Any vacancy caused by resignation, retirement, removal, death of a Chairman of a Standing Committee shall be filled up in accordance with the provisions contained in the foregoing rules for the election of Chairman of a Standing Committee.]

Comments

The provisions of these rules are analogous to the previous rules and hence comments on the foregoing rules and on the Panchayat & Nyaya Panchayat Election Rules, 1960 may be referred to in case of any doubt about the interpretation of the rules.

SCHEDULE No. I

[*Sub-rule (1) of rule 5 of the Rajasthan Panchayat Samitis (Election of Chairman of Standing Committee) Rules, 1959*],

NOMINATION FORM FOR ELECTION OF A CHAIRMAN OF A STANDING COMMITTEE OF A PANCHAYAT SAMITI.

1. Name of the Panchayat Samiti.
2. Description of the Standing Committee.
3. Full name of the candidate.
4. Father's or husband's name.
5. Age.
6. Sex.

7. Address.
8. Full name and address of the proposer.
9. Full name and address of the seconder.

1. Signature of the Proposer. 2. Signature of the Seconder

Date.

Date.

Place.

Place.

Candidate's declaration.

I, the above named candidate, give my consent to this nomination and hereby declare that I do not hold any of the disqualifications enumerated in Rajasthan Panchayat Samitis and Zila Parishads Act 1959, and that I am qualified to be candidate for election as Chairman of.....
Standing Committee of.....Panchayat Samiti
under the provisions of the said Act.

Date.

Signature of the Candidate.

Endorsement by the Pradhan.

Serial Number.....

This nomination paper was presented to me by.....
.....(name) at.....(date and hour).

Date.

Signature of the Pradhan.

Place.

ORDER OF THE PRADHAN

Accepted/Rejected.....

Reasons for rejection.....

Date.

Signature of the Pradhan.

Place.

Received nomination paper of Shri/Shrimati.....
for election as Chairman of.....
 Standing Committee of..... Panchayat Samiti.
 proposed and seconded by (1).....and (2).....
respectively which was presented to me at.....
(place) at.....(time) this
 day of..... 19..... by Shri

Signature of the Pradhan.

SCHEDULE II

[Sub-rule (5) of rule 5 of the Rajasthan Panchayat Samitis
 (Election of Chairman of Standing Committee) Rules, 1959.]

List of candidates proposed for nomination of election as
 Chairman of.....Standing Committee of Panchayat
 Samiti

No.	Name and description of candidate.	Address of candidate.	Remarks.
1.			
2.			
3.			
4.			
5.			
6.			

Date.

Signature of the Pradhan

Place.

SCHEDULE III

[Rule 7 of the Rajasthan Panchayat Samitis (Election of Chairman of Standing Committee) Rules, 1959.]

List of candidates validly nominated for election as
Chairman of.....Standing Committee of.....
Panchayat Samiti.

S. No.	Name and description of candidate.	Address.	Remarks.
1.			
2.			
3.			
4.			
5.			
6.			

Date.

Signature of the Pradhan.

Place.

THE RAJASTHAN PANCHAYAT SAMITIS (RETIREMENT OF MEMBERS OF STANDING COMMITTEES) RULES, 1959.

[Notification No. F. 4/PS/R(5)/4/62/1432, dated 4-1-1962, published in Rajasthan Gazette, Extraordinary, part IV-C, dated 4-1-1962.]

In exercise of the powers conferred by sub-section (1) of section 79 read with ¹[sub-section 11 of section 20] of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959), the State Government hereby makes the following rules, namely:-

1. Short title and commencement :—

(i) These rules may be called the Rajasthan Panchayat Samitis (Retirement of members of Standing Committees) Rules, 1962.

(ii) These rules shall come into force from the date of their publication in the official Gazette.

Amendments

After their first publication in the Official Gazette these rules have been amended only once, which amendments have been incorporated in these rules.

2. Definitions :—

(i) In these rules unless the subject or context otherwise requires—

(a) 'Act' means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959).

1. Substituted by Notification No. F.4/LJ/PS/A(5)1/63/6120, dated 28-3-63 published in Rajasthan Gazette, Ordinary, dated 15-4-63.

and exercise all the functions of a Pradhan under these rules for the purpose of determining the members of the Standing Committee who shall retire as provided in subsection (11) of Section 20, but the Collector or his nominee shall not have power to vote.]

(ii) The notice of such meeting shall be sent by post under certificate of posting or by such other mode as the Pradhan/Up-Pradhan may consider expedient to every member at his place of residence or by handing over to a member present at the Panchayat Samiti office 7 clear days before the date fixed for such meeting.

(iii) Such notice shall be published by affixing it on the notice board of the Panchayat Samiti at its office.

4. *Procedure at the meeting.*—

(i) At such meeting the Pradhan, or in his absence the Up-Pradhan, (hereinafter referred to as the Presiding Officer) shall preside.

(ii) He shall prepare as many chits of blank paper as there are members of the Standing Committee including the Chairman and write before all such members the name of each of them separately on one of such chits.

(iii) When the chits bearing the name of all such members have been prepared and initialled by the Presiding Officer, they shall be folded up so as to conceal the names written thereon and then mixed up together and put up in a vessel so that they not be visible from outside.

(iv) The vessel containing the chits shall be placed in the ¹[central] place where the meeting is held and a stran-

1. Substituted by Notification No. F. 4/LJ/P-S./A(5) 1/63/63/6120, dated 28-3-63, published in Rajasthan Gazette, Part IV-C, dated 15-4-63.

ger shall be called upon to draw out one by one from the vessel, by thrusting his hand therein and without looking into the interior thereof, as many folded chits as there are members to retire.

(v) The Presiding Officer shall take each chit so drawn out, unfold it and read out the name of the member written thereon and note his name in the ¹[proceedings] drawn up under rule 5.

Comments.

Chits under clause (ii) will be made for the vacant seats also, so that $1/3$ of the *total number of members* may retire every year as provided in Section 20.

5. *Proceedings of meeting to be drawn up.*—

(i) The Presiding Officer shall draw up a ¹[proceedings] of the meeting, setting out therein clearly everything done and every step taken and the names of the members whose names appear on the chits drawn under rule 4.

(ii) One copy each of the proceedings shall be transmitted to the Collector and to the Development Commissioner.

6. *Retirement of members.*—

The members of the Standing Committee whose names appear on the chits drawn under rule 4 shall retire from office upon expiration of one year from the date of formation of the Standing Committee.

7. *Second Retirement.*—

(i) On the occasion of the second retirement of members of the Standing Committee, a meeting shall be held, before the expiration of two years from the date of its formation as provided in rule 4.

1. Substituted by Notification No. F. 4/LJ/P.S./A (5) 1/63/63/6120, dated 28-3-63, published in Rajasthan Gazette, Part IV-C, da 5-4-63.

Note

Some doubts having been expressed about the provisions of these rules, the Government have issued the following clarification in respect of such doubts.

[Clarification issued by the Government of Rajasthan Panchayat & Development Department (Panchayat wing) Jaipur in respect of Rajasthan Panchayat Samitis (Retirement of Members of Standing Committees) Rules, 1962.]

Vide their No. F. 4/P.S./5(4) 62 Jaipur, March 23, 1962.

Several doubts have been expressed and queries made with regard to the Rajasthan Panchayat Samitis (Retirement of Members of Standing Committees) Rules, 1962. The points referred to have been carefully examined by the State Government and I have been directed to issue following clarifications :-

(1) Q. The date from which period of one year is to be reckoned ?

A. The date of formation of the Standing Committee is the date from which one year is to be counted. The

date on which Standing Committee is elected is the date on which Standing Committee is deemed to have been constituted and that would be the date of formation of standing committee.

(2) Q. Whether members retiring as a result of the lots drawn can be re elected ?

A. Yes. Since retirement from the membership of a standing committee in pursuance of these rules is not a disqualification to re-election, a member retired can be a candidate for re-election to the same standing committee or any other standing committee.

(3) Q. Whether a Pradhan, if he is a member of the standing committee, is also to retire under these rules ?

A. Yes. His name will also be included in the draw of the lots, and if his name is drawn in the chits of the members retiring he shall also retire. He can, however, offer himself as a candidate for re-election.

(4) Q. Whether members co-opted from outside the membership of the Panchayat Samiti to the standing committees would retire ?

A. Yes. They are members of the standing committee just like any other elected member of the standing committee. If names of co-opted members are drawn in the lots for retirement the vacancies shall be filled up by bye co-option. The co-option will be made in accordance with the rules under the Act. The retired members can offer themselves for re-cooption.

(5) Q. Can the Samiti before filling up the vacancies of of coopted members to the standing committees reconsider its previous decision and decide to fillup

the vacancies of coopted members by electing members of the Panchayat samiti ?

A. Yes. This can be done before notice is issued for convening a meeting for cooption of members to standing committees.

(6) Q. What will be the $\frac{1}{3}$ rd number of 7 ?

A. Since $\frac{1}{3}$ rd number of 7 is $2\frac{1}{3}$, the members to be retired in the first draw would be 3. It has been held in several rulings of the Hon'ble High Court that wherever a fraction of total number of members works out less than one it would be deemed to be a whole number.

(7) Q. Whether quorum as prescribed in the Rules is necessary for the meeting of the standing committee where retirement of members is to take place ?

A. In the Rajasthan Panchayat Samitis (Retirement of members of Standing Committees) Rules, 1962 no quorum has been prescribed. As such quorum prescribed for ordinary meetings of standing committees will not apply to the meeting held for retirement of members.

(8) Q. Who would conduct the proceedings for retirement of members if the Pradhan is also member of the standing committee ?

A. The Pradhan can preside as such meeting. Lots will be drawn by a stranger as laid down in Rule 4.

(9) Q. How are the vacancies caused as a result of retirement of members to be filled up.

A. These vacancies are to be filled up in accordance with procedure laid down in Rajasthan Panchayat

Samitis (Election of members of standing committees) Rules, 1959 and Rajasthan Panchayat Samitis (Cooption of members of standing committees) Rules, 1959 as may be the case.

(10) Q. Whether re-election of Chairmen of standing committees is necessary after the seats falling vacant due to retirement of members have been filled up as a result of bye-election ?

A. The Chairman of a standing committee once elected holds office for the period of the life of the Panchayat Samiti unless he resigns or retires in the course of retirement proceedings. As such fresh elections of a Chairman of a standing committee would not be necessary if the Chairman does not retire.

Sd. Ram Singh
Jt. D. C.

THE RAJASTHAN PANCHAYAT SAMITIS (ELECTION OF TEMPORARY PRADHAN) RULES, 1959.

[Notification No. F. 45 (173) (82) Coord./D.D/59, dated 23-9-1959, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 23-9-1959.]

In exercise of the powers conferred by sub-section (1) of section 74 read with section (6) of section 25 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959), the State Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called the Rajasthan Panchayat Samitis (Election of Temporary Pradhan) Rules, 1959.

(2) They shall come into force from the date of their publication in the Official Gazette.

Amendments

These rules have been amended only once since their first publication in the Official Gazette.

2. *Definitions.*—In these rules unless the context otherwise requires—

(1) “Act” means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959).

(2) “Member” means a member of a Panchayat Samiti constituted under the Act.

(3) “Panchayat Samiti” means a Panchayat Samiti constituted under the Act.

(4) "Vikas Adhikari" means the officer appointed with that designation by the State Government or by such other authority as may be authorised by the State Government in that behalf.

3. *Vikas Adhikari to convene a meeting for election of temporary Pradhan.*—¹[(1)] A meeting of the members of the Panchayat Samiti for the election of a temporary Pradhan shall be convened by the Vikas Adhikari at the office of the Panchayat Samiti ²[within a period of seven days from the date of occurrence of vacancy within the meaning of sub-section (6) of section 25.]

²[(2) A notice of the date and hour of the meeting referred to in sub rule (1) shall be given to all the members of the Panchayat Samiti at least seven days before the date fixed for the meeting.]

4. *Election of Presiding member.*—One of the members present and not standing as a candidate for the office of a temporary Pradhan shall be elected by the members to preside and conduct the election and the member so elected shall hereinafter be referred as the "Presiding member".

5. *Proposing and seconding of a candidate.*—A candidate for the office of temporary Pradhan shall be proposed by one member and seconded by another at the meeting.

6. *Consent of the candidate, necessary.*—(1) The candidate so proposed, if present at the meeting, shall inform the presiding member whether he is willing to stand for such election or not.

1. Renumbered by Notification No. F. 2 (11) Plan/B/59, dated 9-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.

2. Inserted by item 2-ibid.

(2) If any such candidate is not present at the meeting, his proposer or seconder shall produce a letter of consent ¹[signed by] the candidate and deliver it to the presiding member.

7. *Reading out the names of the proposed candidates.*—The names of all the candidates proposed and seconded and who have expressed their willingness to stand for election, shall be read out by the presiding member at the meeting.

8. ¹[*Withdrawal of candidature.*—A candidate may withdraw at any stage before the declaration of the final result of the election.]

9. *Mode of voting and result of election.*—(1) If there is only one duly proposed candidate, there shall be no election and such candidate shall be declared to have been duly elected.

(2) If there are two or more such candidates, an election shall be held by show of hands and the votes of the member present at the meeting taken.

(3) The candidate who secures the largest number of votes shall be declared to have been elected.

(4) In the event of there being an equality of votes between two candidates who get the highest number of votes, the Presiding member shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected.

²[10.] *Preparation of record of proceeding and publication of result of election.*—Immediately after the meeting, the Presiding member shall—

1. Substituted by item 3 of Notification No. F. 2(11) Plan/B/59, dated 9-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.

2. Renumbered by items 4 & 5-ibid.

(a) prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member present at the meeting to affix his signature to such record, if he expresses his desire to do so; and

(b) publish on the notice board of the Panchayat Samiti at its office a notification signed by him stating the name of the temporary Pradhan elected and send a copy of such notification to the Zila Parishad and to the Government.

Note

The provisions of these rules are the foregoing rules. Comments may b

THE RAJASTHAN PANCHAYAT SAMITIS (REMOVAL OF PRADHAN AND UP-PRADHAN) RULES, 1960.

[Notification No. F. 4(LJ) Rules/60, dated 18-10-1960,
published in Rajasthan Gazette, Part IV-C,
Extraordinary, dated 18-10-1960.]

In exercise of the powers conferred by sub section (1) of section 79 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959) read with section 40 thereof, the State Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called the Rajasthan Panchayat Samitis (Removal of Pradhan and Up-Pradhan) Rules, 1960.

(2) They shall come into force upon their publication in the official Gazette.

2. *Definition.*—In these rules, unless the context otherwise requires—

(1) “Pradhan” means the Pradhan of a Panchayat Samiti;

(2) “Section” means a section of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959);

(3) “Up-Pradhan” means the Up-Pradhan of a Panchayat Samiti;

3. *Preliminary inquiry.*—Before taking any action under sub-section (1) of section 40, whether on its own motion

or upon any complaint, the State Government may ask the Collector to make a preliminary enquiry and to send his report to the State Government.

4. *Charge Sheet*.—If upon consideration of the report received as aforesaid, or otherwise the State Government is of the opinion that action under, sub-section (1) of section 10 is necessary, the State Government shall frame definite charges and shall communicate them in writing to the Pradhan or the Up-Pradhan, as the case may be, together with such details as may be deemed sufficient for him to understand the nature thereof and require him to submit within such time as may be specified, a written statement including whether he admits the truth of all or any of the charges, what explanation or defence if any, he has to offer and whether he desires to be heard in person.

5. *Inquiry*.—(1) Where no such written statement is received within the time specified, or where the explanation given in the written statement so received is not accepted, the State Government may itself inquire into such of the charges as are not admitted, or may appoint an enquiry officer for the purpose.

(2) The State Government may nominate any person to present the case in support of the charges before the authority inquiring into the charges (hereinafter referred to as the inquiring authority).

(3) The inquiring authority shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The Pradhan or the Up-Pradhan, as the case may be, shall be entitled to cross examine witnesses examined in support of charges and to give evidence in person. The person presenting the case in support of the charges shall be entitled to cross examine the Pradhan, or the Up-Pradhan, as the case may

be, and the witnesses examined in his defence. If the inquiring authority declines to examine any witness on the ground that his evidence is not relevant or material, it shall record its reasons in writing.

(4) At the conclusion, of the enquiry the inquiring authority shall prepare a report of the inquiry, recording its finding on each of the charges together with reasons therefor. If in the opinion of such authority, the proceedings of the inquiry establish charges different from those originally framed, it may record findings on such charges provided that findings on such charges shall not be recorded unless the Pradhan or the Up-Pradhan, as the case may be, has admitted the facts constituting them or has had an opportunity of defending himself against them.

(5) The State Government shall, if it is not the inquiring authority, consider the record of the inquiry and record its finding on each charge.

Explanation.—The record of inquiry shall include—

- (i) charges framed;
- (ii) written statement of defence;
- (iii) oral or documentary evidence;
- (iv) the report setting out findings on each charge and reasons therefor.

Provisions Mandatory

The provisions of these rules are mandatory and must be observed before an order of removal is passed. Non-observance of the rules may entitle the affected party to get the removal order set aside by Courts.

The provisions are similar to those pertaining to the removal or dismissal of Government Servants. Rulings of High Courts on these rules may be helpful guide in interpreting these rules as the Principles of natural justice underlying the both are the same.

6. *Consultation with Zila Parishad*.—If the State Government having regard to its findings on the charges, is of the opinion that any action under sub-section (1) of section 40 is necessary, it shall—

(a) give such Pradhan, Up-Pradhan, as the case may be, a notice asking him to show cause why he should not be removed from his office and calling upon him to submit within a specified time such representation as he may wish to make;

(b) after receipt of such representation, or where no such representation is received within the time specified, forward to the Zila Parishad concerned the record of inquiry together with a copy of the notice and the representation made in response thereto, for consultation.

. Comments

Government's Decision Final—The final decision to remove or not a Pradhan/Up-Pradhan lies with the Government. Though it has to consult the Zila Parishad, the Government is not bound by the views of that body. The expression "Consultation" should not be confused for "concurrency". Again the courts have no power to substitute their judgment for the Government's as to whether a Pradhan/Up-Pradhan has been rightly removed or not. The matter is entirely for the 'subjective' determination of the Government and the Courts can interfere only if the rules of procedure are not duly observed. Thus an order under these rules can be challenged only for any procedural flaw and not on merits, e. g. the decision not justified on the facts of the case.

7. *Decision*.—On receipt and consideration of the opinion of the Zila Parishad or where no opinion is received within 30 days from the date of the service of the communication for such consultation, the State Government may either exonerate the

Pradhan or the Up-Pradhan, as the case may be, or may remove him from his office.

(2) Orders passed by the State Government under sub-rule (1) shall be communicated to the Pradhan, or the Up-Pradhan, as the case may be, and copies thereof, to the Collector, Panchayat Samiti, Zila Parishad and the Development Commissioner.

(3) If the order is of removal, it shall be published in the Official Gazette.

THE RAJASTHAN ZILA PARISHADS (ELECTION OF TEMPORARY PRAMUKH) RULES, 1959.

[Notification No. F. 45 (173) (83) Coord./D.D./59 dated 23-9-1959, published in the Rajasthan Gazette, Part IV-C, Extraordinary, dated 23-9-1959.]

In exercise of the powers conferred by sub-section (1) of section 79 read with sub-section (6) of section 58 of the Rajasthan Panchayat Samiti and Zila Parishads Act, 1959 (Act No. 37 of 1959), the State Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called the Rajasthan Zila Parishads (Election of Temporary Pramukh) Rules, 1959.

(2) They shall come into force from the date of their publication in the official Gazette.

2. *Definitions.*—In these rules unless the context otherwise requires :—

(1) "Act" means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959).

(2) "Member" means a member of a Zila Parishad constituted under the Act,

(3) "Secretary" means the Secretary of the Zila Parishad.

(5) "Zila Parishad" means a Zila Parishad constituted under the Act.

3. *Secretary to convene a meeting for election of Temporary Pramukh.*—(1) A meeting of the members of the Zila Parishad shall be convened by the Secretary for the purpose of electing a Temporary Pramukh.

Parishad for the election of a temporary Pramukh shall be convened by the Secretary at the office of the Zila Parishad¹[within seven day's from the date of the occurrence of vacancy within the meaning of sub-section (6) of section 58.]

²[(2). A notice of the date and hour of the meeting referred to in sub-rule (1) shall be given to all the members of the Zila Parishad (except the District Development Officer) at least seven day's before the date fixed for the meeting.]

4. *Election of Presiding Member.*—One of the members present¹ and not standing as a candidate for the office of a temporary Pramukh shall be elected by the members to preside and conduct the election and the member so elected shall hereinafter be referred as the "Presiding member."

5. *Proposing and seconding of a Candidate.*—A candidate for the office of temporary Pramukh be proposed by one member and seconded by another at the meeting.

6. *Consent of the candidate, necessary.*—(1) The candidate so proposed, if present at the meeting, shall inform the presiding member whether he is willing to stand for such election or not.

(2) If any such candidate is not present at the meeting, his proposer or seconder shall produce a letter of consent³[signed by] the candidate and deliver it to the presiding member.

7. *Reading out the names of the proposed candidates.*—The names of all the candidates proposed and seconded and who have expressed their willingness to stand for election, shall be read out by the presiding member at the meeting.

1. Inserted by Notification No. F. (17)/Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV—C, Extraordinary, dated 7-12-60.

2. Inserted by item 2-ibid.

3. Substituted by item 3-ibid.

¹[8] *Withdrawal of candidature.*—A candidate may withdraw at any stage before the declaration of the final result of the election.

9. *Mode of voting and result of election.*—(1) If there is only one duly proposed candidate, there shall be no election and such candidate shall be declared to have been duly elected.

(2) If there are two or more such candidates, an election shall be held by show of hands and the votes of the members present at the meeting taken.

(3) The candidate who secures the largest number of votes shall be declared to have been elected.

(4) In the event of there being an equality of votes between two candidates who get the highest number of votes, the Presiding member shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected.

³[10.] *Preparation of record of proceeding and publication of result of election.*—Immediately after the meeting, the Presiding member shall—

(a) prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member present at the meeting to affix his signature to such record, if he expresses his desire to do so; and

(b) publish on the Notice Board of the Zila Parishad

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1. Renumbered by item 4 of Notification F. 2 (17) Plan/B/59 dated 7-12-63, published in Rajasthan Gazette, Part IV—C, Extraordinary, dated 7-12-60.
 2. Renumbered by item 5-ibid.

at its office a notification signed by him stating the name of the temporary Pramukh elected and send a copy of such notification to the Government.

Amendments

These rules have been amended only once after their first publication in the Official Gazette, vide notification published in the Official Gazette, Part IV-C (Extraordinary), dated 7-12-60.

THE RAJASTHAN ZILA PARISHADS (CO-OPTION OF MEMBERS) RULES, 1959.

[Notification No.F.45 (173)/93/Coord/DD/59 dated, 10-9-1959, published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 10-9-1959.]

In exercise of the powers conferred by sub-section (1) of section 79 read with sub-section (4) of section 42 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. XXXVII of 1959), the State Government hereby makes the following rules, namely :—

1. *Short title and commencement.*—These rules may be called the Rajasthan Zila Parishads (Co-option of Members) Rules, 1959 and shall come into Force on the date of their publication in the official Gazette.

2. *Definitions.*—In these Rules, unless the context otherwise requires—

(i) 'Act' means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. XXXVII of 1959);

(ii) 'Members' means persons specified in sub-section (3) of section 42 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959.

(iii) 'Section' means section of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959.

(iv) 'Returning Officer' means the Collector ¹[or

1. Inserted by item 1 of Notification No. F. 2 (4)/Plan/B/59 dated 12-12-60 published in Rajasthan Gazette, Part I 12-12-60.

any other subordinate officer specially appointed by the State Government] ¹[under section 44.]

(v) Words and expressions used but not defined in these Rules shall have the meaning assigned to them in the Act.

3. *Notice for special meeting for co-option.*—As soon as a notification constituting a Zila Parishad under section 42 of the Act has been issued, the Collector shall on a date previously to the date appointed for the constitution of a Zila Parishad under section 42, convene at the office of the Zila Parishad, at the appointed time, a special meeting of members specified in sub-section (3) of section 42, after giving them a notice in writing of not less than seven clear days for the co-option of members specified in sub-section (4) of section 42.

(2) The notice referred to in sub-rule (1) shall state—

(i) the persons to be co-opted from amongst persons residing in the district mentioned in sub-section (4) of section 42 namely :—

(a) two women, if no woman is a member of the Zila Parishad by virtue of sub-section (3) of section 42;

(b) one woman, if only one woman is such member;

(c) one person belonging to the scheduled castes if no such person is a member of the Zila Parishad by virtue of sub-section (3) of section 42;

(d) one person belonging to the scheduled tribes if no such person is a member of the Zila Parishad by virtue of sub-section (3) of section 42 and the

1. Inserted by Notification No. F. 2 (16) Plan/A/59/10586 of 24-3-61, published in Rajasthan Gazette, Part IV-C, Ordinary, dated 18-5-61.

population of such tribes in the district exceeds five percent of the total population of that district.

(e) two persons whose experience in administration, public life or rural development would be of benefit to the Zila Parishad.

(ii) the place and date on which and the hours between which the nomination papers shall be filed.

(iii) the place and date on which and the hours between which the nomination papers will be taken up for scrutiny, and

(iv) the place and date on which, and the hours between which the votes of members will be taken, should there be a poll.

(3) Such notice shall be sent by post or by such other mode as the Collector may consider expedient to every member at his ordinary place of residence.

(4) Such notice shall be published by affixing it on the Notice Board of the Zila Parishad at its office.

4. *Collector etc. to preside over meeting for Co-option.*—The meeting for co-option of members shall be presided over by the ¹[Collector] ²[or any other subordinate officer specially appointed by the State Government] ³[here after referred to as the Returning Officer.]

1. Substituted by Notification No. F. 2(16) Plan/B/59-415, dated 1-1-62, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 1-1-62.
2. Inserted by Notification No.F.2(4) Plan/B/59, dated 12-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.
3. Inserted by Notification No. F. 2(16) Plan/B/59/10686 dated 24-3-61, published in Rajasthan Gazette, Part IV-C, Ordinary, dated 18-5-61.

5. *Filing of Nomination Papers.*—The nomination of every candidate shall be made by means of a nomination paper in the form prescribed in Schedule I.

(2) Every nomination paper shall be signed by two members as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for co-option.

(3) Each candidate shall be nominated by a separate nomination paper.

(4) Every nomination paper shall be presented by the candidate or his proposer or seconder on the date at the place and during the hours specified in the notice for filling nomination papers.

(5) Immediately after the time for receipt of nomination paper is over, the Returning Officer shall cause to be published a list, in the form prescribed in Schedule II, containing the names of the candidates whose nominations have been received under the preceding sub-rule.

6. *Scrutiny of nomination papers.*—(1) On the date appointed for the scrutiny of nominations, the candidate, his proposer and seconder may attend at such place and time as is specified in the Notice for the scrutiny of nomination papers and the Returning Officer shall give such persons all reasonable facilities to examine the nomination papers of all the candidates which have been received as aforesaid.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may, either on such objection, or on his own motion and, after such summary enquiry, if any, as he may deem necessary, reject any nomination on any one or more of the following grounds :—

(a) that the candidate is not eligible for co-option under section 42;

(b) that the candidate suffers from any of the disqualifications mentioned in section 15 of the Act; or

(c) that the proposer or seconder is a person who is not a member :

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder, or of any other particulars if the identity of the candidate, proposer or seconder, as the case may be, can otherwise be established beyond reasonable doubt :

Provided further that in the case of a dispute whether any candidate has experience in administration, public life or rural development beneficial to the Zila Parishad or not such dispute shall be referred to the State Government ¹[or any person or authority to whom the powers are delegated in this behalf,] whose decision shall be final.

(3) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing, a brief statement of reasons for such rejection.

7. *Publication of the list of nominated candidates.*—The Returning Officer shall ²[before the time for the meeting for co-option] cause to be published a list containing the names of validly nominated candidates in the form prescribed in Schedule III by affixing it on the Notice Board of the Zila Parishad at its office.

1. Inserted by Notification No. F. 2 (16) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, part IV-C, Extraordinary, dated 7-12-

2. Substituted by item 2-ibid.

8. *Withdrawal of candidature*—A candidate may withdraw his candidature any time before the commencement of the poll by giving a notice in writing to that effect to the Returning Officer.

9. *Procedure after publication of the list of validly nominated candidates*—(1) If the number of candidates is equal to the number of vacancies, the Returning Officer shall declare all such candidates duly elected as co-opted members.

(2) If the number of such candidates is less than the number of vacancies, the Returning Officer shall declare all such candidates duly elected as co-opted members and shall adjourn the meeting to another date not less than seven days after the date appointed under sub-section (1) of section 41 to fill up the remaining vacancies.

(3) If the number of candidates exceeds the number of persons to be co-opted, an election shall be held by secret ballot and votes of the members present at the meeting shall be taken.

10. *Procedure for adjournment of the meetings of co-option for want of quorum etc.*—(1) If for want of the necessary quorum or for any other sufficient reason, the members fail to co-opt the persons specified in sub-section (4) of section 42, the Returning Officer shall adjourn the same to another date not less than seven days after the date appointed under sub-section (1) of section 44.

(2) One-third of total number of members shall form the quorum of a meeting for co-option.

(3) A notice of the date fixed for the adjourned meeting shall be affixed on the Notice Board of the Zila Praishad at its office and shall be despatched by post individually to members specified in sub-section (3) of section 42 ¹[under a certificate of posting.]

1. Added by Notification No. F.2(16) Plan/B/59 dated 7-12-60 published in Rajasthan Gazette, Part IV-C Extra-Ordinary, dated 7-12-60.

(4) Immediately after the adjournment of the previous meeting under the preceding sub-rule, and upon such despatch the notice shall be regarded as having been served on the members within the ordinary course of post.

11. *Voting and result of election.*—(1) The Returning Officer shall cause such arrangements to be made as will ensure the secrecy of the ballot.

(2) Every member wishing to vote shall be supplied with a ballot paper on which names of duly nominated candidates, who have not withdrawn their candidature, shall be printed, typed, cyclostyled or legibly written in Hindi in the alphabetical order of their names in the form prescribed in Schedule IV.

(3) The voter shall place a cross mark (X) in column 2 of the ballot paper, duly authenticated by seal and signatures of the Returning Officer against the ¹[name or names of the candidate or candidates] for whom he wishes to vote with a ²[pencil of any colour, red, black whichever is placed at the polling compartment and may be available at the polling station :]

³[Provided that if a voter is illiterate, or by reason of infirmity, is unable to vote in the above manner, the Returning Officer, shall at the request of such voter make the marks on the ballot papers according to the direction of such voter and

1. Inserted by item 4 of Notification No. F. 2 (4) Plan/B/59, dated 12-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 12-12-60.
2. Substituted by Notification No. F. 2(16)/Plan/B/59-415 dated 1-1-62, published in Rajasthan Gazette, Extraordinary, Part IV-C, dated 1-1-62.
3. Added by Notification No. F. 45 (173) (93) coord./DD/59 dated 18-9-59, published in Rajasthan Gazette. Extraordinary, Part IV-C, dated 18-9-59.

shall cause the ballot paper so marked to be placed in the ballot box.]

(4) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Returning Officer.

(5) The ballot box shall be so constructed that the ballot papers can be introduced therein but can not be withdrawn therefrom without the box being unlocked.

(6) Every person wishing to record his vote shall do so in person and not by proxy.

(7) The Returning Officer shall, after the voting is over, count the votes in the presence of such members as may be present and declare the result in the following manner :-

(a) The candidate who is found to have obtained the largest number of valid votes, or if more than one is to be co-opted, the candidates up to the number of persons to be co-opted who are found to have obtained the largest numbers of valid votes shall be declared to have been co-opted.

(b) In the event of there being an equality of votes between the candidates, the Returning Officer shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected as a co-opted member.

Amendments

After their first publication in the Official Gazette, these rules have been published five times i.e. on 17-9-60, 7-12-60, 9-12-60, 12-12-60 and 1-1-62.

Comments

The provisions of these rules being similar to these of the

forgoing rules, no separate comments are necessary and in case of doubt, comments under them may be referred to.

Quorum

Collector, though an ex-officio member of a Zila Parishad, will not be counted for the purposes of quorum.

12. *Validity of ballot papers.*—Any ballot paper which bears any mark or signature of any of voting member by which the voter can be identified or in which the mark (X) is placed against more than the number of vacancies or in an ambiguous manner or which does not bear the official seal and signature prescribed in sub-rule (3) of Rule 11, shall be invalid.

13. *Preparation of record of proceedings and publication of result of election.*—Immediately after the meeting for co-option, the Returning Officer shall—

(a) Prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member present at the meeting to affix his signature to such record, if he expresses his desire to do so;

(b) publish on the Notice Board of the Zila Parishad at its office notification signed by him, stating names of the persons elected as co-opted members and send a copy of such notification to the ¹[Collector] & the Government.

14. *Packing and preservation of election record.*—(1) The Returning Officer shall then make up into packets the ballot papers and other papers relating to the election, seal up the packets and note thereon a description of the contents, the election to which they relate and the date therefor.

1. Substituted by Notification No. F. 2 (16) Plan/B/59, dated 1-1-62 published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 1-1-62.

(2) The packet shall be retained in safe custody in the office of the Collector concerned for a period of three years and shall then, unless otherwise directed by a competent court, be destroyed.

²[14 A. *Production and inspection of co-option papers.*—While in the custody of the ¹[Collector] the packets of co-option papers shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the orders of a competent court.]

15. *Filling up of vacancies of co-opted members.*—Any vacancy occurring in the office of a co-opted member before the expiration of his term shall be filled by co-option of another person in the manner provided in the forgoing rules and the person so co-opted shall hold office for the residue of the term of his predecessor :

Provided that the meeting for such co-option shall be convened and presided over by the Pramukh or, in his absence, by the Up-Pramukh.

³[16. × × ×]

SCHEDULE I

[*Sub rule (1) of rule 5 of the Rajasthan Zila Parishads (Co-option of Members) Rules, 1959.*]

Nomination Form for Election of Co-opted Members of Zila Parishad ⁴[for the Seat mentioned in clause.....of sub-

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- 1- Substituted by Notification No. F. 2 (16) Plan/B/59 dated 1-1-62 published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 1-1-62.
 2. Inserted by Notification No. F. 2 (16) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 7-12-60.
 3. Omitted by item 5 of Notification No. F. 2 (4) Plan/B/59 dated 12-12-60, published in Rajasthan Gazette, Part IV-C, dated 12-12-60.
 4. Inserted by Notification No. F. 2 (16) Plan/B/59, dated 7-12-60, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 7. 12. 60.

section (4) of section 42 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 namely for.....(give description of the Seat).]

1. Name of the Zila Parishad.
2. Full name of the candidate.
3. Father's or Husband's name.
4. Age.
5. Sex.
6. Address.
7. Full name and address of the Proposer.
8. Full name and address of the Secunder.

1. Signature of the Proposer.
2. Signature of the Secunder.

Date.
Place.

Date.
Place.

Candidate's declaration.

I, the above named candidate give my consent to this nomination and hereby declare that I do not hold any of the disqualifications enumerateds in section 15 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, and that I am qualified to be a candidate for co-option to the Zila Parishad under the provisions of the said Act.

Date.
Place.

Signature of the candidate.

Endorsement by the Returning Officer

Serial Number

This nomination paper was presented to me by.....
(Name) at.....(date and hour)

Date.

Place.

Signature of the Returning Officer.

Order of the Returning Officer

Accepted/Rejected.

Reasons for rejection.....
.....

Date.

Place. Signature of the Returning Officer.

Received nomination paper of Shri.....for election
as a co-opted member of... ..Zila Parishad, proposed
and seconded by (1).....and (2).....respectively which
was presented to me at.....(place) at.....
(time).....this.....day of.....of.....196 ,
by Shri.....

Signature of the Returning Officer.

SCHEDULE II

[*Sub-rule (5) of rule 5 of the Rajasthan Zila Parishads
(Co-option of Members) Rules, 1959*]

List of candidates proposed for election as co-opted
members of Zila Parishad.

S. Name and description of candidate. Address. Remarks.
No.

- 1.
- 2.
- 3.
- 4.
- 5.

Date.

Place. Signature of the Returning Officer.

SCHEDULE III

[*Rule 7 of the Rajasthan Zila Parishads (Co-option of Members) Rules, 1959*].

List of Candidates validly nominated for election as co-opted members of a Zila Parishad.

S. No.	Name and description of the candidate.	Address	Remarks
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1.
2.
3.
4.
5.

Date.

Place.

Signature of the Returning Officer.

SCHEDULE IV

[*Sub-rule (2) of Rule 11 of the Rajasthan Zila Parishads (Co-option of Members) Rules, 1959.*]

BALLOT PAPER.

.....Zila Parishad.....

Signature and seal of the Returning Officer

S. No.	Name of the candidate with the name of father or husband and residence.	For Mark (×) by voter
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

**THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA
PARISHADS (MOTION OF NO-CONFIDENCE IN
PRADHAN, UP-PRADHAN, PRAMUKH OR
UP-PRAMUKH) RULES, 1961.**

[*Notification No. F. 116 (50) P.S./Rules/DD/61, dated
8-10-1961, published in Rajasthan Gazette, Extraordinary,
Part IV-C, dated 21-11-1961.*]

In exercise of the powers conferred by sub-section (1) of section 79 read with sections 39 and 49 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act No. 37 of 1959) and in supersession of this Department Notification No. F. 45 (173) (108) (Co-ord.) DD/59, dated the 26th September, 1961, the State Government hereby makes the following rules, namely :—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Rajasthan Panchayat Samitis and Zila Parishads (Motion of no-confidence in Pradhan, Up-Pradhan, Pramukh or Up-Pramukh) Rules, 1961.

(2) They shall come into force upon their publication in the official Gazette.

2. *Definitions.*—In these Rules, unless the subject or context otherwise requires—

(1) 'Pradhan' means the Pradhan of a Panchayat Samiti.

(2) 'Up-Pradhan' means the Up-Pradhan of a Panchayat Samiti.

(3) 'Pramukh' means the Pramukh of a Zila Parishad.

(4) 'Up-Pramukh' means the Up-Pramukh of a Zila Parishad.

3. *Motion of no-confidence in Pradhan, Up-pradhan, Pramukh and Up-Pramukh.*—(1) A written notice of intention to make a motion expressing want of confidence in the Pradhan or Up-Pradhan or in the Pramukh or Up-Pramukh shall be in form I to the Collector, who shall give to the members notice of not less than fifteen clear days of such meeting in the following manner, namely:—

He shall send by post under certificate of posting not less than 15 clear days before the date of the meeting, a notice of such meeting, and of the date and the time appointed therefor, in form II to every member of the Panchayat Samiti or the Zila Parishad, as the case may be, at his ordinary place of residence and shall at the same time cause such notice to be published by affixing a copy of it on the Notice Board of the Panchayat Samiti or Zila Parishad, as the case may be, at its office :

Provided that in case of such place where there is no post-office or where the service of the notice cannot be effected expeditiously, such notice may be served through the Tehsil concerned.

FORM I

(See Rule 3)

Form of the written Notice of intention to make a motion expressing want of confidence.

In the Pradhan/Up Pradhan of a Panchayat Samiti

Pramukh/Up-Pramukh

Zila Parishad

To

The Collector

NOTICE

Sir,

We, the undersigned members of the.... ..Panchayat Samiti/Zila Parishad* hereby give this notice to you of our intention to make a motion of no-confidence in Shri....., the Pradhan/Up-Pradhan/Pramukh/Up Pramukh* of our Panchayat Samiti/Zila Parishad* and also annex hereto a copy of the proposed motion of no-confidence.

Yours faithfully,

Place.....

Date

*Delete whichever is not necessary.

FORM II

(See Rule 4)

Form of the notice of a meeting of the Panchayat Samiti/Zila Parishad to be held for consideration of the no-confidence motion against the Pradhan/Up-Pradhan/Pramukh/Up-Pramukh.*

To

Shri.....

Member of.....Panchayat Samiti/Zila Parishad.*

NOTICE

This notice is hereby given to you of the meeting of..... Panchayat Samiti/Zila Parishad* which shall be held at the office of the said Panchayat Samiti/Zila Parishad* on.....(date) at.... ..(time) for consideration of the motion of no-confidence which has been made against Shri..... the Pradhan/Up-Pradhan/Pramukh/Up-Pramukh* of the said Panchayat Samiti/Zila Parishad*.

A copy of the motion is annexed hereto.

Collector

Place

Date.....

*Delete whichever is not necessary.

THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA
PARISHADS (ELECTION OF PRADHAN AND PRAMUKH)
RULES, 1964.

*[Elec. Deptt. Notification No. F. 1 (1) (3) V/Elec./65
dated Dec.30, 1964 published in Rajasthan Gazette Extra ordi-
nary part IV C dated 30-12-1964]*

No. F. 1 (1) (3) V/Elec./65.—In exercise of powers conferred by sub-section (1) of section 79 read with sections 12 and 45 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959), the State Government hereby makes the following rules, namely:—

PART I

1. *Short title.*—These rules may be called “The Rajasthan Panchayat Samitis and Zila Parishads (Election of Pradhan and Pramukh) Rules, 1964”.

PART II

2. *Definition.*—In these rules, unless the context otherwise requires—

(i) “Act” means Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959).

(ii) “Electors” means in context of election of Pradhan, the persons specified in sub-clauses (i), (ii) and (iii) of clause (a) of sub-section (1) of section 12 and in the context of election of Pramukh, persons specified in sub-clauses (i) and (ii) of clause (a) of sub-section (1) of section 45.

(iii) “Form” means the form annexed to these rules.

(iv) “Returning Officer” means in case of election of Pradhan the Collector or a

as such by the Collector and in case of election of Pramukh any officer appointed by the Government.

(v) "Section" means the section of the Act.

(vi) "Schedule" means the Schedule appended to these Rules.

(vii) Words and expressions used but not defined in these Rules shall have the meaning assigned to them in the Act.

PART III

3. *Appointment of date for election of Pradhan.*—As and when it becomes necessary to hold the election for Pradhan of a Panchayat Samiti, the Government shall by notification in the Official Gazette appoint a date in this behalf.

4. *Public notice of election.*—(1) After the issue of the notification referred to in rule 3 and after the first meeting of co-option in Panchayats and Panchayat Samitis but not less than seven clear days before the date of election as notified under rule 3, the Collector shall give a public notice in Form I calling upon the electors of Panchayat Samiti to elect a Pradhan on the date appointed by the Government.

(2) The Public notice shall also state —

(a) the dates on which, and the hours during which and the place at which the nomination papers shall be presented to the Returning Officer,

(b) the date and the hour thereof and the place at which the nomination papers shall be taken up for scrutiny,

(c) the date and the hour thereof by which the nomination may be withdrawn,

(d) the date on which and the hours during which poll shall, if necessary, be taken:

Provided that such date shall not be earlier than the next succeeding day of the date fixed for withdrawal of nominations.

(3) Such notice shall be published by affixing its copies on the notice board of the Collector's office and at the office of Panchayat Samiti and Panchayats situated within the block and where an office of Panchayat has not been established it shall be pasted at some conspicuous place at the headquarters of Panchayat.

5. *Nomination of Candidates.*—Any person may be nominated as a candidate for election to the office of Pradhan if he is qualified to be elected to that office under the provisions of the Act.

6. *Presentation of Nomination Paper.*—(1) On any of the dates, at the place and during the hours fixed under clause (a) of sub rule (2) of rule 1, each candidate shall, either in person or by his proposer or seconder deliver to the Returning officer a nomination paper duly completed in Form II and signed by the candidate and by two electors as proposer and seconder.

(2) Where the candidate is a member of any Gram Sabha a certificate to that effect signed by the Tehsildar concerned or the President of such Sabha shall be filed with nomination paper.

(3) Nothing in this rule shall prevent any candidate from being nominated by more than one nomination paper but not exceeding two.

7. *Deposits.*—A candidate shall not be deemed to be validly nominated for election unless he deposits or causes to be deposited in cash a sum of one hundred rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe a sum of fifty rupees with the Returning Officer or in the office of the Panchayat Samiti at or before the time of the delivery of nomination papers:

Provided that if a candidate files more than one nomination paper, not more than one deposit shall be required from him.

8. *Procedure on receipt of nomination paper.*—(1) On presentation of a nomination paper, the Returning Officer shall—

(a) where the nomination paper is of a candidate who is a voter of any Panchayat, satisfy himself that the name and the voter's list number of the candidate as entered in the nomination paper are the same as those entered in the voters list:

Provided that the Returning Officer shall permit any clerical or technical error in the nomination paper in regard to the said name or number to be corrected in order to bring it in conformity with the corresponding entries in the voters list, and where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(b) sign thereon the certificate stating therein the date and time of presentation of nomination paper and enter thereon its serial number.

(c) inform the person presenting the nomination paper of the date, time and place fixed for scrutiny of nomination papers.

(2) Immediately after the time of receipt of nomination papers is over, the Returning Officer shall cause a list to be published at the office of Panchayat Samiti in Form III, containing names of the candidates whose nominations have been received under sub-rule (1).

9. *Scrutiny of nomination papers.*—(1) The candidate and one other person duly authorised in writing by each candidate shall be entitled to be present at the time of scrutiny of

nomination papers, and the Returning Officer shall give them all facilities for examining the nomination papers which have been delivered in time and in the manner laid down in rule 6.

(2) The Returning Officer shall then examine the nomination papers and decide the objections which may be made by any of them.

(3) The Returning Officer may either on such objections or on his own motion and after such summary enquiry which he thinks necessary, reject a nomination paper on any of the following grounds, namely. —

(a) that the candidate is not eligible for the election as Pradhan or suffers from any of the disqualifications as laid down under the provisions of the Act, or,

(b) that the proposer or seconder is not an elector or

(c) that the signature of the candidate, proposer or seconder is not genuine or has been obtained by fraud or

(d) that there has been a failure to comply with any of the provisions of the rules 6 and 7.

(4) Nothing contained in clauses (c) or (d) of sub-rule (3) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate is duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(5) No nomination paper shall be rejected on ground of any defect which is not of a substantial character.

(6) The Returning Officer shall hold the scrutiny at the place on the date and time appointed in this behalf under clause (b) of sub-rule (2) of rule 4 and shall not allow any adjournment of proceedings.

(7) The Returning Officer shall endorse on each nomination paper, his decision, either accepting or rejecting it and if the

nomination paper is rejected, shall record in writing a brief statement of reasons for rejecting it.

10. *Notice of withdrawal of candidature.*—(1) A candidate may withdraw his candidature any time before the hour of the day fixed under clause (c) of sub-rule (2) of rule 4 by giving a notice in writing to that effect and submitting the same to the Returning Officer personally.

(2) No person who has given a notice of withdrawal of his candidature under rule (1) shall be allowed to cancel the notice.

11. *Procedure in contested and uncontested elections.*—

(1) If after the time fixed for withdrawal of candidature there remains only one candidate, the Returning Officer shall forthwith declare him to be duly elected as Pradhan.

(2) If there is no validly nominated candidate, all proceedings in relation to elections shall be commenced afresh.

(3) If the number of contesting candidates exceeds one a poll shall be taken.

12. *Allotment of symbols.*—(1) If poll is to be taken, the returning officer shall assign a symbol to each contesting candidate immediately after the hour fixed for the withdrawal of the nominations, out of the symbols mentioned in the Schedule.

(2) The decision of Returning Officer in the allotment of symbols shall be final.

(3) Immediately after allotment of symbols, the Returning Officer shall publish at the office of Panchayat Samiti a list of contesting candidates in Form IV containing the names in Hindi in alphabetical order written in Devnagri Script alongwith their addresses as given in the nomination papers and the symbols allotted to each candidate.

13. *Form of Ballot paper.*—(1) Every ballot paper shall be in such form as the State Government may direct and the particulars thereon shall be in Hindi in Devnagri script.

(2) The names of candidates shall be printed typed or legibly written on the ballot papers in the same order as they appear in the list of contesting candidates in Form IV.

(3) If two or more candidates bear the same name, they shall be distinguished by addition of their father's or husband's names, as the case may be, or in such other manner, as the Returning Officer may deem fit.

14. *Place of election.*—The election shall ordinarily be held in the office of the Panchayat Samiti and if the building of the office of the Panchayat Samiti is not found suitable then at such other place at the headquarters of the Panchayat Samiti as the Returning Officer may select:

Provided that where the Returning Officer selects a place which is not the office of the Panchayat Samiti, he shall notify such place by affixing a notice on the notice Board of the Panchayat Samiti and at some conspicuous part of such place.

15. *Appointment of Polling Officers.*—The Returning Officer may appoint such polling officer or officers as he thinks necessary to assist him in taking the poll but he shall not appoint any person who has been employed by, or on behalf of, or has been working for, a candidate in or about the election.

16. *List of electors.*—(1) The Collector shall cause to be prepared an authentic list of electors in Form V and furnish it to the Returning Officer.

(2) The Returning Officer shall, if satisfied, after such enquiry as he thinks fit that any entry is erroneous or defective in any particular or that the name of any elector has been left out from inclusion in such list, amend the entry or direct inclusion of the name. in ing hall

17. *Manner of voting.*—At every election taken, votes shall be given by ballot and no by proxy.

18. *Procedure before the commencement poll.*—(1) The Returning Officer shall, immediately before the commencement of the poll, allow inspection of ballot box to be used at the poll to such candidates and their authorised representatives as may be present at the place of poll.

(2) The Returning Officer shall then secure and seal the box in such manner that the list for the insertion of ballot papers remains open, and shall also allow such candidates or their authorised representatives as may be present to affix their own seals, if they so desire.

19. *Admission to the place of polling.*—The Returning Officer shall exclude from the place of polling all persons except—

(a) the polling officers and other public servants on duty:

(b) the candidates, and one representative authorised in writing by each candidate; and

(c) such other persons as the Returning Officer may from time to time admit for the purpose of assisting him in taking the poll.

20. *Procedure of giving ballot paper.*—Immediately before a ballot paper is issued to an elector the serial number thereof, shall be recorded against the entry relating to the elector in the list referred to in sub-rule (1) of rule 16, and thereafter the ballot paper shall be delivered to him.

21. *Voting procedure.*—(1) The Returning Officer shall cause such arrangements to be made as will ensure secrecy of ballot.

(2) The elector on receiving the ballot paper shall put a cross mark (×) on or near about the symbol and name of the candidate for whom he wishes to vote by means of the instrument

Provided that if a voter by reason of infirmity, is unable to vote in the above manner, the Returning Officer shall, at the request of such voter put the mark on the ballot paper according to the directions of such voter and shall cause the ballot paper so marked to be placed in the ballot box.

(3) He shall then fold the ballot paper so as to conceal his vote and deposit the same in the ballot box placed in view of the Returning Officer.

22. *Tendered votes.*—(1) If a person representing himself to be a particular elector applies for a ballot paper after any other person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the Returning Officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper hereafter in these Rules referred to as a "tendered ballot paper" in the same manner as any other elector.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form VI.

(3) A tendered ballot
ballot papers used in election

(a) serially the
to be used at such election.

(b) endorsed on
ballot paper" by the
and signed by him.

(4) The elector, after
the voting compartment and
it in the ballot box, give it
place it in a cover specially

23. *Identity of elector*
paper is delivered to an elector

Polling Officer shall satisfy himself as to the identity of the elector with reference to the entry relating to that elector in the list of electors. He shall also hear and decide then and there any objections raised in this behalf. He may refuse to issue a ballot paper to any person who declines to answer any reasonable question, put to him for the purpose of ascertaining such identity or whose identity is not established, but the ballot paper may not be refused merely on the ground of any typographical error or omission in the relevant entry of such list, if the identity of the elector is otherwise established.

24. *Close of Poll.*—The Returning Officer shall close the place of polling at the hour fixed in this behalf under clause (d) of sub-rule (2) of rule 4, and shall not admit therein any elector after that hour:

Provided that all electors present at the place, before it is so closed, shall be entitled to have their votes recorded.

25. *Counting of Votes.*—(1) The counting of votes shall commence immediately after the close of poll so far as possible.

(2) Votes shall be counted by or under the supervision of the Returning Officer and each candidate or one representative of each candidate authorised in writing by the candidate shall have a right to be present at the time of counting.

26. *Procedure of counting and declaration of result.*—
(1) The Returning Officer shall scrutinise the ballot papers and separate those which in his opinion are valid from those which in his opinion are invalid endorsing on the latter the word 'rejected' and the grounds of rejection.

(2) A ballot paper shall be invalid on the following grounds:—

(i) that it bears any mark or signature by which an elector can be identified, or

(ii) that the cross mark (×) is placed against more than one name, or

IN

THE RAJASTHAN PANCHAYAT SAMITIS & ZILA
PARISHADS (ELECTION OF PRADHAN AND
PRAMUKH) RULES, 1964

[Elec. Dept. Notification No. F. 1 (1) (3) V/Elec./65 dated Jan. 20th, 1965 published in Raj. Gazettee part IV-C Extra. dated 21-1-65.]

In the said rules,—

After Rule 26, the following new rule shall be added, namely :—

“26A. *Adjournment of poll in emergencies.*—(1) If at an election—

(a) the proceedings at the place of poll are interrupted or obstructed by any riot or open violence or it is not possible to take the poll on account of any natural calamity, or any other sufficient cause, or

(b) if any ballot box or ballot papers used at the place of election are unlawfully taken out from the custody of Returning Officer or intentionally damaged or destroyed to such an extent that the result of the poll cannot be ascertained, or

(c) the ballot paper is in contravention of sub-rule (2) of Rule 13,

the Returning Officer shall,—

(i) in case of sub-clause (a) announce the adjournment of poll.

(ii) in case of sub-clause (b) or (c) declare that the poll already taken shall be void and announce that a fresh poll shall be taken.

(2) In every case as aforesaid, the Returning Officer shall forthwith fix the date, place and hours of polling and shall notify the same in such manner as he deems fit.

(3) In the circumstances mentioned in sub-clause (a) of sub-rule (1), the electors who have already voted at the poll so adjourned shall not be allowed to vote again.

(4) Whenever the Returning Officer adjourns the poll under sub-rule (1), he shall seal and secure the ballot box containing ballot papers used there at, allow any candidate or his agent present to affix his seal thereon and shall then keep such ballot box in safe custody.

(5) Provisions of the foregoing rules shall as far as may be, apply to an adjourned or fresh poll.”

(iii) that no mark is recorded thereon or the mark is so placed that it could not be ascertained for whom the vote has been given,

(iv) that it is a spurious ballot paper.

(3) Every ballot paper which is not rejected under the foregoing sub-rule shall be counted as one valid vote:

Provided that no cover containing tendered ballot papers shall be opened and no such paper shall be counted.

(4) When the counting of votes has been completed the Returning Officer shall declare to be elected the candidate to whom the largest number of votes has been given.

(5) In the event of there being equality of votes between the candidates, the Returning Officer shall draw a lot in the presence of the candidates and the candidate whose name is first drawn shall be declared to have been duly elected.

27. *Return and forfeiture of deposit* — (1) Except in the cases hereafter mentioned in this rule the deposit made under rule 7, shall be returned as soon as practicable after the result of election is declared.

(2) If a candidate withdraws his candidature in time, or his nomination paper is rejected, the deposit made by him or on his behalf shall be returned to the person by whom it was made, forthwith.

(3) The deposit shall be forfeited, if at the election, where the poll was taken, the candidate is not elected and number of votes polled by him does not exceed one sixth of the total number of valid votes polled by all the candidates.

28. *Publication of result of election*.—Immediately after the declaration of the result under rule 11 or 26 the Returning Officer shall publish on the Notice Board of the Panchayat Samiti a notification signed by him stating the name of person elected as Pradhan and send a copy thereof to the Government Central Press Jaipur for

Gazette and one such copy to the Collector concerned and Director of Elections, Rajasthan, Jaipur.

29. *Packing and preservation of election record.*—(1) The Returning Officer shall then make up into packets the ballot papers and the papers relating to the election, seal up the packets and note thereon a description of the contents, the election to which they relate and the date thereof.

(2) The packets shall be retained in safe custody in the office of the Collector concerned for a period of three years and shall then, unless otherwise directed by a competent Court be destroyed.

30. *Non-attendance of the candidates or their authorised representatives.*—Where any act or thing is required or authorised by or under these Rules to be done in the presence of the candidate or his authorised representative, the non-attendance of any such candidate or authorised representative at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

PART IV

31. *Election of Pramukh of Zila Parishad.*—The provisions of rules 2 to 30 shall, as far as may be, apply in relation to the conduct of the election of Pramukh subject to the exceptions and modifications specified below :—

(a) in rule 4—

(i) sub rule (1), shall be substituted by the following namely :—

“(i) After the issue of the notification referred to in rule 3 and after the first meetings of co-option in the Panchayat Samitis and Zila Parishad but not less than seven clear days before the date of election as notified by the said notification, the Collector shall give

public notice in Form I calling upon the electors of Zila Parishad to elect a Pramukh on the date appointed by the Government."

(ii) for sub rule (3) the following sub rule shall be substituted, namely :—

"(3) such notice shall be published by affixing its copies on the Notice Boards of the offices of Collector, Zila Parishad and Panchayat Samitis."

(b) after sub rule (2) of rule 6, the following new sub-rule shall be added, namely :—

"(2a) Where a candidate is a voter of a Municipal Council or Board a copy of the Electoral Roll of such Council or Board or a certified copy of the relevant entry of such Roll shall be filed along with the nomination paper."

(c) In rule 7, for the words 'One hundred rupees' the words 'two hundred rupees' and for the words 'fifty rupees' the word 'hundred rupees' shall be substituted.

(d) Any reference in the said Rules to 'Pradhan' and 'Panchayat Samiti' shall be construed as references to 'Pramukh' and Zila Parishad.'

FORM I

PUBLIC NOTICE

[See rule 4 (1)]

Election to the office of—

Pradhan, Panchayat Samiti.....
Pramukh, Zila Parishad.....

Whereas the Government has appointed under the dated for election of Pradhan/Pramukh of Panchayat Samiti Zila Parishad..... I,.....
.....Collector of.....

District do hereby call upon the electors of the said Panchayat Samiti/Zila Parishad to elect a Pradhan/Pramukh therefor and give notice that;

(a) the nomination papers may be delivered between the hours of 11 in the morning and 3 in the afternoon by a candidate or his proposer or seconder to the Returning Officer.....at the places on the dates as specified below :—

(1).....(Place) on(dates)

(2).....(Place) on(dates)

(b) scrutiny of nominations shall take place at.....
.....(hour) on.....(date)
at.....(place);

(c) notice of withdrawal of candidature may be delivered by a candidate to the Returning Officer before
.....(hour) on.....(date) at
.....(place);

(d) in the event of election being contested, the poll will take place on.....
(date) between the hours of.....and.....
at.....(place).

Date

Collector

Place

————— District

FORM II

NOMINATION PAPER

[(See rule 6 (1)]

Election to the office of—

Pradhan, Panchayat Samiti.....
Pramukh, Zila Parishad.....

We hereby nominate —————(Name
and address of the candidate) as candidate for election to the
office of Pradhan/Pramukh in Panchayat Samiti/Zila Parishad
—————

We have verified and do hereby declare that the said candidate:—

(i) is the resident of.....block/district as defined in sub-section (13) of section 2 of the Act.

(ii) is registered—

(a) at serial No. ———— in the voter's list of ward No.....of Panchayat Circle.....

Or

(b) as a member of Gram Sabha of Gramdan Village ———— and a certificate of his being such member is attached.

Or

*(c) at serial No. ———— in the electoral roll and ward No. ———— of ———— Municipality; and a certified copy of such entry is attached; and

iii) is able to read and write Hindi.

We further declare that both of us are electors for the election of Pradhan/Pramukh, the proposer being** ———— and the seconder being** ————

1. Signature of proposer.

2. Signature of Seconder.

CANDIDATE'S DECLARATION

I, the above named candidate give my consent to this nomination and hereby declare that I have completed..... years of age.

Date.....

Place.....

Signature of the
Candidate

*applicable only in case of

**Here insert M. P./M. member/Elected member of Gramdan Panch/President of Gramdan Panchayat Samiti or any other office may be appropriate.

Endorsement by the Returning Officer

Serial Number.....

'This nomination paper was presented to me by-----
 ----- (name) at ----- (date) by the candidate/
 proposer/secondor.

Date.....

Place....

Signature of the Returning Officer.

ORDER OF THE RETURNING OFFICER

Accepted/Rejected.....

Reasons for rejections.....

Date.....

Place.....

Signature of the Returning Officer.

Received nomination paper of Shri/Shrimati.....
for election as Pradhan/Pramukh of Panchayat
 Samiti/Zila Parishad, ----- proposed and seconded by
 (1).....and (2) ----- respectively
 which was presented to me at (place) at.....
 (time) this.....day of.....19
 by Shri.....

Signature of the Returning Officer.

FORM III

*List of nominated candidates.**[See rule 8 (2)]*

Election to the office of -----
 Pradhan, Panchayat Samiti... ..
 Pramukh, Zila Parishad....

S. No.	Name of candidate.	Name of father/ husband.	Address of the candidate.
1	2	3	4

Date.....

Place.....

Returning Officer.

FORM IV

*List of contesting candidates**[See rule 12 (3)]*

Pradhan, Panchayat Samiti.....

Election to the office of _____

Pramukh, Zila Parishad.....

Serial No.	Name of candidate with address.	Symbol allotted
1	2	3

Date.....

Place.....

Returning Officer.

FORM V

List of Electors.

See rule 16 (1)

Panchayat Samiti/Zila Parishad

S. No.	Name of the Elector	Father's/Husband's name	Office held.	Name of Panchayat/ Panchayat Samiti.	Remarks.
1	2	3	4	5	6

FORM VI

List of tendered Votes

[See rule 22 (2)]

Pradhan Panchayat Samiti... ..

Election to the office of _____

Pramukh Zila Parishad.....

Serial number and name of Elector.	Address of elector.	S. No. of tendered ballot paper.	S. No. of ballot paper issued to the person who has already voted.	Signature or thumb impression of person tendering vote.
1	2	3	4	5

Date.....

Place.....

Returning officer.

SCHEDULE

(See rule 12)

LIST OF SYMBOLS

1. Horse.
2. Bycycle.
3. Crescent Moon.
4. Elephant.
5. Lion.
6. Bus.
7. Railway Engine.
8. Two Leaves.
9. Scales.
10. Flower.
11. Sheep.
12. Cart
13. Sparrow.
14. Watch.
15. Pot.
16. Spade.
17. Umbrella.
18. Camel.

THE RAJASTHAN PANCHAYAT SAMITIS (ELECTION OF ASSOCIATE MEMBERS) RULES, 1965.

Pt. & Devp. Deptt. Notification No. F. 4/LJ/PS/A/64/637-934 dated 2nd Jan 1965, Pub. in Raj. Gaz. part IV-C Extra. dated 2/1/65.—In exercise of the powers conferred by sub-section (1) of section 79 read with sub-section (1) of section 10 and section 18 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act, 37 of 1959), the State Government hereby makes the following rules, namely:—

1. *Short title.*—These Rules may be called the Rajasthan Panchayat Samitis (Election of Associate Members) Rules, 1965.

2. *Definition.*—In these Rules, unless the context otherwise requires,—

- (i) "Act" means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Act 37 of 1959).
- (ii) "Clear days" include Sundays and holidays but does not include the day of the meeting and the day of the receipt of the notice by the person to whom it is addressed.
- (iii) "Deputy Registrar" means the officer appointed by the Government with that designation and includes an Assistant Registrar.
- (iv) "Section" means section of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959.
- (v) Words and expressions used but not defined in these Rules shall have the meaning assigned to them in the Act.

3. *Notice for meeting for election.*—(1) The Deputy Registrar shall within one month, of the constitution of a Panchayat Samiti under section 7 or subject to the provisions of sub-sections (4) of section 7, on every occasion the Panchayat Samiti is reconstituted or a vacancy of associate member occurs, convene at the office of the Panchayat Samiti at the appointed time and date a special meeting of the Chairmen of the Co-operative Societies and the Service Co-operative Societies as the case may be, after giving them a notice in writing of not less than seven clear days for election of a representative specified in clause (a) or (b) of sub-section (1) of section 10.

(2) The notice referred to in sub-rule (1) shall state :

(a) number of representatives to be elected from amongst persons mentioned in clause (a) or (b) of sub-section (1) of section 10, as the case may be,

(b) the place and date on which and the hours between which nomination papers shall be filed.

(c) the place and date on which and the hours between which the nomination papers will be taken up for scrutiny.

(d) the place and date on which and the hours between which the votes of the members will be taken, should there be a poll.

3. Such notice shall be sent by post or by such other mode as the Deputy Registrar may consider expedient to every Chairman at his ordinary place of residence.

(4) Such notice shall also be published by affixing it on the Notice Board of the Panchayat Samiti at its office.

5. *Deputy Registrar etc. to preside over the meeting.*—The meeting for election shall be presided over by the Deputy Registrar (hereinafter referred to as the Returning Officer).

5. *Filing of nomination papers.*—(1) The nomination of every candidate shall be made by means of a nomination paper in the form prescribed in Schedule I.

(2) Every nomination paper shall be signed by two members as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for election.

(3) Each candidate shall be nominated by a separate nomination paper.

(4) Every nomination paper shall be presented by the candidate or his proposer or seconder on the date, at the place and during the hours specified in the notice for filing nomination papers.

(5) Immediately after the time for receipt of nomination papers is over, the Returning Officer shall cause to be published a list, in the form prescribed in Schedule II containing the names of the candidates whose nominations have been received under the preceding sub-rule.

6. *Scrutiny of nomination papers.*—(1) On the date appointed for the scrutiny of nominations, the candidate, his proposer and seconder may attend at such place and time as is specified in the notice for the scrutiny of nomination papers and the Returning Officer shall give such persons all reasonable facilities to examine the nomination papers of all the candidates which have been received as aforesaid.

(2) The Returning Officer shall then examine the nomination papers and shall do so at the time to any nomination paper or on his own motion, and as he may deem necessary more of the following grounds:

(a) that the candidate

(3) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing, a brief statement of reasons for such rejection.

7. *Publication of the list of nominated candidates*.—The Returning Officer shall before the time fixed for election, cause to be published a list containing the names of validly nominated candidates in the form prescribed in Schedule III, by affixing it on the Notice Board of the Panchayat Samiti at its office.

8. *Withdrawal of candidature*.—A candidate may withdraw his candidature any time before the hour fixed for commencement of the poll by giving a notice in writing to that effect to the Returning Officer.

9. *Procedure after publication of list of validly nominated candidates*.—(1) If the number of candidates is equal to the number of vacancies, the Returning Officer shall declare such candidates duly elected as associate members.

(2) If no nomination is received the Returning Officer shall adjourn the meeting to another date.

(3) If the number of candidates exceeds the number of persons to be elected an election shall be held by ballot.

10. *Voting and result of Election*.—(1) The Returning Officer shall cause such arrangements to be made as will ensure the secrecy of ballot.

(2) Every member wishing to vote shall be supplied with a ballot paper on which names of duly nominated candidates, who have not withdrawn their candidature, shall be printed, typed, cyclostyled or legibly written in Hindi in the alphabetical order of their names in the form prescribed in Schedule IV.

(3) The voter shall place a cross mark (x) in column 2 of the ballot paper duly authenticated by seal and signatures of the Returning Officer against the name of the candidate for whom he wishes to vote with a pencil of any colour red, blue or black whichever is placed in the polling compartment and may be available at the polling station :

Provided that if a voter is illiterate or by reason of infirmity is unable to vote in the above manner, the Returning Officer shall at the request of such voter, make the (x) mark on the ballot paper according to the directions of such voter and shall cause the paper so marked to be placed in the ballot box.

(4) He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Returning Officer.

(5) The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked.

(6) Every person wishing to record his vote shall do so in person and not by proxy.

(7) The Returning Officer shall, after the voting is over, count the votes in the presence of such members as may be present and declare the result in the following manner:—

(a) The candidate who is found to have obtained the largest number of valid votes, shall be declared to have been elected.

(b) In the event of there being an equality of votes between the candidates, the Returning Officer shall draw lots in the presence of the members and the candidate whose name is first drawn shall be declared to have been duly elected as associate member.

11. *Validity of ballot papers.*—Any ballot paper which bears any mark or any signature of any voting member by which the voter can be identified or which does not bear the official seal and signatures as mentioned in sub-rule (3) of rule 10 or in which the mark (x) is placed against more than one name or in an ambiguous manner shall be invalid.

12. *Preparation of record of proceedings and publication of result of election.*—Immediately after the meeting for election of associate members, the Returning Officer shall:—

(a) prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member to affix his signature to such record to do so;

(b) publish on the Notice Board of the Panchayat Samiti at its office a notification signed by him, stating the names of the persons elected as associate members and send a copy of such notification to the Collector and the Government.

13. *Packing and preservation of election record.*—(1) The Returning Officer shall make up into separate bundles—

- (i) Such of the ballot papers as have been accepted valid,
- (ii) the remaining ballot papers which have been rejected as invalid, and.
- (iii) all other record including nomination papers etc.

(2) He shall then make up the above three bundles into one packet and seal the packet noting thereon the description of the contents, the election to which they relate and the date thereof.

(3) The packets shall be retained in safe custody in the office of the Collector concerned for a period of three years and shall then, unless otherwise directed by a competent court, be destroyed.

14. *Production and inspection of election papers.*—While the custody of the Collector, the packets of election papers all not be opened and their contents shall not be inspected by or produced, any person or authority except under the orders of a competent court.

15. *Filling up of vacancies of Associate Members.*—Any vacancy occurring in the office of an associate member before the expiration of the term of office of the Panchayat Samiti as provided in sub-section (1) of section 14 or clause (f) of sub-section (2) of section 14 shall be filled by election of another person in the manner provided in section 18 :

Provided that the meeting of such election shall be convened by the Deputy Registrar within one month of the occurrence of such vacancy.

SCHEDULE 1

(See sub-rule (1) of rule 5)

Nomination Form for election of Associate Members of Panchayat Samiti (for seat mentioned in clause.... of sub-section (1) of section 10 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1951) for.... (give description of the seat).

1. Name of the Panchayat Samiti.
2. Full name of the candidate.
3. Father's or Husband's name.
4. Age.
5. Sex.
6. Address.
7. Full name and address of the proposer.
8. Full name and address of the Seconder.

1. Signature of the proposer. 2. Signature of the Seconder

Place Place.....
Date..... Date.....

CANDIDATE'S DECLARATION

I, the above named candidate, give my consent to this nomination and hereby declare that I do not hold any of the disqualifications enumerated in section 15 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 and that I am qualified to be a candidate for election of Associate Member to the Panchayat Samiti under the provisions of the said Act.

Place..... Signature of the candidate.
Date.....

ENDORSEMENT BY THE RETURNING OFFICER

Serial Number ..

This nomination paper was presented to me by.....
(Name) at..... (date and hour).

Place.....

Date.....

ORDER OF THE RETURNING OFFICER

Accepted/Rejected.....

Reasons for rejection.....

Place.....

Date..... Signature of the Returning Officer.

Received nomination paper of Shri.....for
election as a Associate Member of.....Panchayat
Samiti proposed and seconded by (1).....and
(2)respectively, which was presented to me
at.....(place) at.....(time)
.....This.....day of..... 19....., by
Shri.....

Signature of the Returning Officer.

SCHEDULE II

(See sub-rule (5) of rule 5)

List of candidates proposed for election as Associate
Members of Panchayat Samiti.

S.No.	Name and description of candidate.	Address	Sex	Remarks
1.				
2.				
3.				
4.				
5.				
6.				

Place.....

Date..... Signature of the Returning Officer.

SCHEDULE III

(See rule 7)

List of candidates validly nominated for election as Associate members of a Panchayat Samiti.

S.No.	Name and description of candidate.	Address	Remarks.
1.			
2.			
3.			
4.			
5.			
6.			

Place.....

Date..... Signature of the R

SCHEDULE IV

(See sub-rule (2) of rule 14)

BALLOT PAPER.

.....Panchayat

Signature

S.No. Name of the candidate with the name of father or husband and residence.

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

THE RAJASTHAN ZILA PARISHAD (VACATION OF OFFICE OF PRAMUKH) RULES, 1965.

Panchayat & Development Dept. notification No. F.4/LJ/PS/A/64/11-338.—dated 2-1-65 published in Raj. Gaz. Extra. part IV-C dated 2-1-65.—In exercise of the powers conferred by sub-section (1) of section 19 read with sub-section (1) of section 45 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act, 37 of 1959), the State Government hereby makes the following Rules, namely:—

1. *Short title*,—These Rules may be called the Rajasthan Zila Parishad (Vacation of Office of Pramukh), Rules, 1965.

2. *Definition* —In these Rules unless the context otherwise requires,—

(i) 'Act' means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959)

(ii) Words and expressions used but not defined in these Rules shall have the meaning assigned to them in the Act.

3. *Vacation of seat on election as Pramukh*.—If a person, who is already a member of a Municipal Board or Council established under the Rajasthan Municipalities Act, 1959 is elected Pramukh of a Zila Parishad, he shall, before entering upon his office as Pramukh, resign his membership of the Municipal Board or Council and shall intimate the fact of his resignation to the Collector of the District in writing within 10 days of his election as Pramukh.

(2) In case of failure to intimate as required under sub-rule (1), the election of the person as Pramukh shall be deemed to be void and the office of Pramukh shall automatically become vacant.

4. *Vacation of office on election as member of Municipal Board or Council*.—If at any time after a person has been elected as Pramukh, and he is also chosen as a member of a Municipal Board or Council, he shall cease to be Pramukh of the Zila Parishad and his office shall be deemed to have become vacant from the date he is so chosen as a member.

5. *Bar to function in two capacities*.—In either of the situations referred to in rules 3 and 4 above, a Pramukh, so long as he is also a member of the Municipal Board or Council, shall not be eligible to function as Pramukh and attend the meeting of Zila Parishad.

THE RAJ. PANCHAYAT SAMITIS (ELECTION OF MEMBERS FROM GRAM SABHAS) RULES, 1964.

Elce. Dept. Notification No. F. 1 (1) (7) V/Elec./65—
Dated 30th Dec. 1964 Pub. in Raj. Gaz. Extra. part IV-C dated 30th Dec. 64.

1. *Short title and commencement*.—These rules may be called the Rajasthan Panchayat Samitis (Election of Members from Gram Sabhas) Rules, 1964.

2. *Definitions*.—In these rules unless the context otherwise requires :—

(i) 'Act' means the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959.

(ii) 'Members' means persons referred to in clause (iii-a) of sub-section (1) of section 8 of the Act.

(iii) 'President' means president of a Gram Sabha.

(iii) 'Section' means the section of the Act.

(v) Words and expressions used but not defined in these rules shall have the meanings assigned to them in the Act.

3. *Determination of the number of persons to be elected*.—
(1) The Collector shall determine the number of the members to be elected from the block in accordance with the provisions contained in clause (iii-a) of sub-section (1) of section 8.

(2) Where the number of Presidents in a block is equal to the number of members determined under sub-rule (1) all such presidents shall be declared to be members of Panchayat Samiti by the Collector.

4. *Special meeting for election*.—(1) In case the number of members determined under rule 3 is less than the number of Presidents in the Block, the Collector or any officer authorised by him shall convene a special meeting of the Presidents of the Block for electing such members, in the office of the Panchayat Samiti.

(2) Such meeting shall be presided over by the Officer convening the meeting.

5. *Notice of the meeting for election*.—(1) A notice of the date and hour of such meeting and number of members to be elected shall be given to all Presidents of Gram Sabhas.

(2) Such notice shall be sent to every President of Gram Sabhas by such mode as the officer convening the meeting may consider expedient.

*Explanation:—*If any President cannot be served with a notice personally and is not found at his usual place of residence, the notice shall be pasted at some conspicuous place of his house and such substituted service shall be deemed to be sufficient service for the purpose of this rule.

(3) A copy of such notice shall be exhibited on the notice board of the Panchayat Samiti.

6. *Procedure for election.*—(1) Any President present in the meeting may propose in writing the name of any other president (hereinafter referred to as candidate) for election as member :

Provided that all such proposals shall be made within an hour of the commencement of the meeting and no proposal shall be entertained or received thereafter.

(2) If such president is not present at the meeting his acceptance in writing of the proposal shall be submitted along with the proposal :

Provided that in case the president proposed for such election is present at such meeting, his written acceptance shall not be necessary if he signifies such acceptance orally.

(3) The presiding officer shall read out the names of the candidates and examine the proposals one by one and afford a reasonable opportunity to the presidents present to examine the same and raise objections thereto and shall then decide all such objections and may, either on such objection or on his own motion, reject any proposal on any of the following grounds:—

(a) that the candidate is not eligible for election as member under the provisions of the Act; or

(b) that there has been a failure in complying with the provisions of this rule.

(4) If any proposal is rejected the presiding officer shall record in writing a brief statement of the reasons for such rejection.

(5) The names of all the candidates whose nominations are found to be in order shall be read out by the presiding officer.

(6) If the number of candidates is equal to or less than the number of members to be elected, all such candidates shall be declared to be duly elected as members of the Panchayat Samiti.

(7) If the number of candidates exceeds the number of members required to be elected, votes shall be taken by show of hands and the candidate or candidates equal to the number of members determined under rule 3 securing the largest number of votes shall be declared to have been duly elected:

(i) Provided that each President present in the meeting shall have as many votes as there are number of members to be elected but shall not give more than one vote to a candidate.

(ii) Provided that in case of equality of votes, the result shall be declared by drawing of lots in the member which the presiding officer may think proper.

(8) If there is no candidate or the number of candidates elected is less than the number of members required to be elected, the presiding officer shall adjourn the meeting to another date and the provisions of rules 4 and 5 and this rule shall apply.

7. *Preparation of record of proceedings and publication of result of election.*—Immediately after the meeting for election, the Presiding Officer shall:—

(a) publish on the Notice Board of the Panchayat Samiti at its office a notification signed by him, stating the names of the persons declared to be the elected members and send copies of such notification to the Collector and the Government.

(b) prepare a record of the proceedings at the meeting and sign it, attesting with his initials every correction made therein, and also permit any member present at the meeting to affix his signature to such record, if he expresses his desire to do so, and forward them to the Collector.

[8. *Casual Vacancies.*—In the event of the office of any member becoming vacant by death, removal, resignation or otherwise under the Act, the vacancy shall forthwith be reported to the Collector, and the provisions of the foregoing rules shall mutatis mutandis apply to the filing up of such vacancy as may be.]

1. Added by Elec. Deptt. Notification No. 1111
V/Elec./65/916 dated 17th Feb., 1965, Published in Extra ordinary part IV-C dated Feb. 17, 1965.

PANCHAYAT & DEVELOPMENT DEPTT. NOTIFICATIONS

For Computing the term of Panchayati Raj. Institutions

1. Zila Parishads

No. F. 4/LJ/2/(2) 64/5089-374. dated 2nd Feb. 1965
Pub. in Raj. Gaz. Extra. Part IV-C dated 2nd Feb. 65—In exercise of the powers conferred by sub-section (I-A) of section 46 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, (Rajasthan Act 37 of 1959), the State Government hereby appoints 25th day of February, 1965 as the date on which the term of all the existing Zila Parishads in Rajasthan shall expire.

2. Panchayat Samitis

No. F. 4/LJ/D/1/65/5661-6946. Dated 2nd Feb. 1965
Pub. Raj. Gaz. Extra. Part IV-C Dated 2nd Feb. 1965.—In exercise of the powers conferred by sub-section (1) of section 46 of the Rajasthan Panchayat Samitis and Zila parishads Act, 1959 (Rajasthan Act 37 of 1959), the State Government hereby appoints 26th day of February, 1965 as the date from which the term of all the newly constituted Zila Parishads in Rajasthan shall be computed.

No. F. 4/LJ/2/(2)63/2957-3253. dated 20th Feb. 1965
Pub. in Raj. Gaz. Extra. Part IV-C dated 20th Feb. 1965.—In exercise of the powers conferred by sub-section (1) of section 7 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953), the State Government hereby notifies 21st day of January, 1965 for computing the term of all Panchayats in Rajasthan.

3. Panchayats

P & D. D. N. No. F. 4/LJ/2/(2) 64/4803-5088 dated 2nd Feb. 1965 Pub. in Raj Gaz. Extra. Part IV-C dated 2nd Feb. 65.—In exercise of the powers conferred by sub-section (I-A) of section 14 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959). the State Government hereby appoints 7th day of February, 1965 as the date on which the term of all the existing Panchayat Samitis in Rajasthan shall expire.

No. F. 4/LJ/PS/D/1/65/5375-660. dated 2nd Feb. 1965
Pub. in Raj. Gaz. Extra. Part IV-C dated 2nd Feb. 1965.—In exercise of the powers conferred by sub-section (1) of section 14 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959) the State Government hereby appoints 8th day of February, 1965 as the date from which the term of all the newly constituted Panchayat Samitis in Rajasthan shall be computed.

Section VI

Provisions of the Rajasthan Panchayat Samitis &
Mila Parishads Act, 1959 Pertaining to the Election

2
10 11 12

...

1

Provisions of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 Pertaining to Elections

[As amended by Seven amending Acts viz. Rajasthan act
No. 25 of 1960; 11 of 1961; 14 of 1961, 27 of 1961;
8 of 1962; 2 of 1964 andof 1964.]

CHAPTER II

Panchayat Samitis

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7. Constitution of P
8. Composition of P
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10. Associate member
11. Special meeting for
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Up-Pradhan of a
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14. Term of office
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16. Cessation of memb
17. Judge to decide p
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CHAPTER III

Zila Parishads

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Provisions of the Rajasthan Panchayat Samitis & Zila Parishads Act, 1959 Pertaining to Elections.

[As amended by six amending Acts viz. Rajasthan Acts No. 25 of 1960; 11 of 1961; 14 of 1961; 27 of 1961; 8 of 1962; & 2 of 1964.]

CHAPTER II

Panchayat Samitis

6. *Declaration of blocks.*—(1) For the purpose of this Act, the State Government may, by notification in the Official Gazette.—

- (a) declare any area within the same district to be a block, or
- (b) include any area within the same district in a block so declared, or
- (c) exclude any area from any such block, or
- (d) transfer any area from one block to another within the same district :

Provided that any areas which, at the commencement of this Act, stand declared by the State Government, by notification in the Official Gazette, as blocks shall be deemed to be blocks for the purposes of this Act.

(2) The State Government :
the limits of every block.

(3) When under sub-section (1), any area is included in a block, the Panchayat Samiti for that block shall have jurisdiction over such area and all rules, notifications, orders, directions, notices and powers lawfully made, issued and conferred and in force throughout the block at the date of such inclusion, shall apply to the area so included from that date, unless the State Government directs otherwise.

(4) When under sub-section (1), any area is excluded from a block, such area shall, as from the date of such exclusion, cease to be subject to the jurisdiction of the Panchayat Samiti of the block and to the rules, notifications, orders, directions and notices in force therein.

(5) When, under sub-section (1), any area is transferred from one block to another, such area shall cease to be subject to the jurisdiction of the Panchayat Samiti which, previously to such transfer, had jurisdiction therein and the rules, notifications, orders, directions and notices applicable thereto.

(6) Every area so transferred shall, as from the date of such transfer, be subject to the jurisdiction of the Panchayat Samiti of the block to which such transfer has been made and to the rules, notifications, orders, directions and notices applicable thereto, and the State Government may place at the disposal of the Panchayat Samiti of the block to which such transfer has been made such portion of the assets of the Panchayat Samiti from whose jurisdiction the area has been transferred as it may deem proper.

(7) The State Government may, for the purposes of the foregoing sub-sections, make such temporary orders and give such temporary directions as it may consider necessary.

7. Constitution of Panchayat Samitis.—(1) The State Government may by notification in the Official Gazette, constitute a Panchayat Samiti for a block with effect from such date as may be specified in the notification.

(2) Every Panchayat Samiti shall bear the name of the block for which it is constituted and to be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to enter into contracts and may, by its corporate name, sue and be sued.

(3) The State Government may by notification in the Official Gazette, change the name of a Panchayat Samiti.

(4) If, after a Panchayat Samiti is constituted for a block under sub-section (1), the block is redelimited, the State Government may reconstitute the Panchayat Samiti for the redelimited block under that sub-section :

Provided that, in reconstituting the Panchayat Samiti, the State Government may direct that the Pradhan, the Up-Pradhan or a co-opted member of the Panchayat Samiti ²[who] was functioning immediately before such redelimitation and who is otherwise qualified to hold such office in the reconstituted Panchayat Samiti shall be Pradhan, Up-Pradhan or co-opted member of the reconstituted Panchayat Samiti as if he was elected or co-opted, as the case may be, to such office in the reconstituted Panchayat Samiti.

8. *Composition of Panchayat Samitis.*—(1) Every Panchayat Samiti shall consist of ³[the following members, namely]:—

(i) Sarpanchas of all Panchayats in the block, and

⁴[(ia) a Krishinipun declared as such for the block by the Zila Parishad,]

¹[(ii) ×××]

1. Omitted by Rajasthan Act No. 25 of 1960 published in Rajasthan Gazette, Extraordinary Part IV-A, dated 24-8-1960.

2. Substituted and deemed to have been Substituted from 9-11-1960 by sec. 4 of Rajasthan Act No. 11 of 1961 published in Rajasthan Gazette, Extraordinary Part, IV-A, dated 5-4-1961.

3. Inserted and deemed always to have been inserted by sec 5 (a) (i).....ibid.

4. Inserted and deemed to have been inserted from 9-11-1960 by sec. 4 of Rajasthan Act No. 11 of 1961.....ibid.

Provided that—

- (a) in case the area of a panchayat ¹[XXX] circle extends over more than one block, the Sarpanch of that Panchayat ¹[XXX] shall be a member of the Panchayat Samitis of all such blocks but such Sarpanch shall not be elected as Pradhan or Up-Pradhan of more than one Panchayat Samiti,
- (b) if the office of the Sarpanch of a Panchayat ¹[XXX] in the block is vacant, the Up-Sarpanch of that Panchayat ¹[XXX] shall, until the vacancy is filled up, be the member of the Panchayat Samiti of that block.
- (c) if the offices of both the Sarpanch and Up-Sarpanch of a Panchayat ¹[XXX] in the block are vacant, any person elected by the Panchayat ¹[XXX] from among its other Panchas shall until either of the two vacancies is filled up be the member of the Panchayat Samiti of the block.

(d) notwithstanding anything in the law for the time being in force relating to Panchayats, if any Sarpanch of a Panchayat ¹[XXX] refuses to be a member of the Panchayat Samiti or resigns such membership or otherwise ceases to be such member, he shall, with effect from the date of such refusal, resignation or cessation, cease to be the Sarpanch of the Panchayat ¹[XXX] as the case may be, and the person who succeeds him in such office shall be the member of the Panchayat Samiti in his place, ²[XXX].

-
1. Omitted by Rajasthan Act No. 25 of 1960 published in Rajasthan Gazette Extraordinary, Part IV-A, dated 24-8-1960.
 2. Omitted and deemed to have been omitted from 9-11-1960 by sec. 5 (a) (iii) of Rajasthan Act No. 11 of 1961 published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-1961.

(e) in the case of a superseded Panchayat ¹[× ×] or where any Panchayat ¹[× ×] is not functioning at the relevant time, the Panchayat Samiti shall co-opt ²[after the date fixed for its constitution or re-constitution] a person residing in the area within the jurisdiction of Such Panchayat ¹[× ×] to be the member representing such area.

²[(f) if the Sarpanch of a Panchayat is elected under section 12 to be the Pradhan of the Panchayat Samiti, the Up-Sarpanch of that Panchayat shall be the member of the Panchayat Samiti so long as the said Sarpanch continues to hold the office of the Pradhan during the current term of office of the Panchayat Samiti, and

³[(g) × × ×]

⁴[(ii) members of the Legislative Assembly of the State elected from the area within the jurisdiction of the Panchayat Samiti;

(iii) Sub-Divisional Officer within whose jurisdiction the block is situate, who shall be an ex-officio member, but shall have no right to vote;

Co-opted Members

(iv) members co-opted under sub-section (2);

Associate Members

-
1. Omitted by Raj. Act No. 25 of 1960 published in R. G. Extra Part IV A dated 24-8-60.
 2. Inserted and deemed to have been inserted from 9-11-1960 by sec. 5 (a) (v) of Rajasthan Act No. 11 of 1961 published in R. G. Extra., Part IV-A dated 4-5-61.
 3. Deleted and Omitted by sec. 12 of the Raj. Act No. 32 of 1964 published in Raj. Gazette, Extra ordinary, Part IV-A dated 3-12-1964.
 4. Substituted by sec. 12 (iii).....ibid.
 5. Inserted by Sec. 5 of Raj. Act No. 11 of 61.

(v) associate members specified in section 10]

¹[(1a) Ex-officio members specified in clauses (i) and (ii) of sub-section (1) and co-opted members shall have the right to speak, in or otherwise take part in the proceedings of, the Panchayat Samiti and of any Standing Committee thereof and shall also be entitled to vote, but the ex-officio member specified in clauses (ii) and (iii) of the said sub-section or a Sarpanch who is also a member of the State Legislature or Parliament shall not be elected as Pradhan or Up-Pradhan or as Chairman of the Standing Committee.”; and]

(2) The following persons shall be co-opted ³[as members] in the prescribed manner from amongst persons residing in the block ¹[and who are voters of the Panchayat or members of the Gram sabhas established under section 8 of the Rajasthan Gramdan Act, 1960, (Rajasthan Act 3 of 1960), in the block.] by the members mentioned ²[in clauses (i) of [ii] of sub-section (1), namely :—

⁴[(i) representatives of villages in the block that may have been notified under section 5 of the Rajasthan Gramdan Act, 1960, (Rajasthan Act 3 of 1960) as gramdan villages, chosen from amongst the presidents of the Gram Sabhas of such gramdan villages, the number of such representatives to be—

-
1. Inserted by sec. 12 of the Raj. Act No. 32 of 1964 published in Raj. Gazette, Extra ordinary, Part IV-A dated 3.12-1964.
 2. Substituted by *ibid.*
 3. Inserted and deemed always to have been inserted by sec. 5 (b) (i) of Rajasthan Act 11 of 1961 *ibid.*
 4. Substituted and deemed always to have been substituted by sec. 5 (b) (iii) of Rajasthan Act.....*ibid.*

- (a) one such president for a gramdan village or a group of gramdan villages of which the total population is not less than one thousand persons, and
- (b) two such presidents for a gramdan village or a group of gramdan villages of which the total population is not less than three thousand persons :

Provided that in case the total population of a gramdan village or a group of gramdan villages exceeds three thousand persons, the number of such representatives shall be one such president for each of the units into which the said gramdan village or the said group of gramdan villages may be divided in the prescribed manner, so however that the total population of each such unit shall not be less than one thousand five hundred persons;]

- (ii) two women, if no woman is the member of the Panchayat Samiti by virtue of sub-section (1).
- (iii) one woman, if only one woman is such member,
- (iv) ¹[two persons] belonging to the scheduled castes if no such person is a member of the Panchayat Samiti by virtue of sub-section (1).
- ²[(iva) one person belonging to only one such person is the Samiti by virtue of sub-section (1).
- ³[(v) in case the population of ex

1. Substituted
sec. 5 (b)
Gazette,

2. Inserted
(b) (v)...

3. Substituted
9-11-60]

- (a) two persons belonging to such tribes if no such person is the member of the Panchayat Samiti of that block by virtue of sub-section (1). or
- (b) one person belonging to such tribes if only one such person is the member of that Panchayat Samiti by virtue of sub-section (1)].

¹[(VI) x x x]

¹[(VII) x x x]

COMMENTS

Constitution of Panchayat Samiti—

This section is new and has been substituted by the Rajasthan Panchayat Laws (Amendment) Act, 1964. According to the amended provisions, a Panchayat Samiti shall have three types of members as follows :—

(a) *Ex-officio* members:—

- (i) All Sarpanchas of the Panchayats;
- (ii) Members of the Legislative Assembly elected from the area within the jurisdiction of the Panchayat Samiti;
- (iii) Sub Divisional Officer within whose jurisdiction the block is situate (with no voting rights).

(b) *Coopted members* :

- (i) Representatives of Gramdan villages;
- (ii) Two women;
- (iii) Two persons belonging to Scheduled castes;
- (iv) Two persons belonging to Scheduled Tribes;

(c) *Associat members* :

- (ii) One representative elected in the prescribed

1. Omitted by Section 12 of Raj. Act. No. 32 of 1964 Published in Raj Gaz. Extraordinary, Part IV A, dated 3-12-1964.

manner by the Chairman of the Service Co-operative Societies in the block from amongst themselves.

- (ii) One representative elected in the prescribed manner by the Chairman of the Cooperative Societies if any, having area of operation in the block.
- (iii) Chairman, of the marketing cooperative Societies if any, having area of operation in the block.
- (iii) Chairman of the marketing cooperative societies if any, having area of operation in the block.

It will be seen that the membership of Krishi Nipun and the cooption of two persons with experience in administration, public life or rural development in the Panchayat Samiti has been done away with now. The Pradhan will be elected by a broad based electoral college consisting of (i) ex-officio and coopted members of the Panchayat Samiti (excluding the Sub Divisional Officer) & (ii) the elected & coopted members of the Panchayats in the block. A person to be eligible for the office of the Pradhan must be a voter of any Panchayat or a member of any Gram Sabha established under Section 8 of the Rajasthan Gramdan Act, 1960 in, & a resident of the block & must also be able to read and write Hindi. It has been specifically provided that a person shall not be entitled to be elected or continue as a Pradhan if he is, or becomes a member of the State Legislature or Parliament.

In order that the schedule of elections is not disturbed by the failure of any Panchayat or Panchayat Samiti to coopt any members, it has been provided that the election of Pradhan or Up-pradhan shall be valid notwithstanding any such vacancies.

It will be noticed that an ordinary voter in the Panchayats in the block is now entitled to contest election for the office of the Pradhan. It has, therefore, been provided that a Pradhan, unless he is already a member, shall be an additional member of the Panchayat Samiti and shall in all respects and for all purposes be deemed to be an ex-officio member.

- (a) two persons belonging to such tribes if no such person is the member of the Panchayat Samiti of that block by virtue of sub-section (1). or
- (b) one person belonging to such tribes if only one such person is the member of that Panchayat Samiti by virtue of sub-section (1)].

¹[(VI) x x x]

¹[(VII) x x x]

COMMENTS

Constitution of Panchayat Samiti—

This section is new and has been substituted by the Rajasthan Panchayat Laws (Amendment) Act, 1964. According to the amended provisions, a Panchayat Samiti shall have three types of members as follows :—

(a) Ex-officio members:—

- (i) All Sarpanchas of the Panchayats;
- (ii) Members of the Legislative Assembly elected from the area within the jurisdiction of the Panchayat Samiti;
- (iii) Sub Divisional Officer within whose jurisdiction the block is situate (with no voting rights).

(b) Coopted members :

- (i) Representatives of Gramdan villages;
- (ii) Two women;
- (iii) Two persons belonging to Scheduled castes;
- (iv) Two persons belonging to Scheduled Tribes;

(c) Associat members :

- (ii) One representative elected in the prescribed

1. Omitted by Section 12 of Raj. Act. No. 32 of 1964 Published in Raj Gaz. Extraordinary, Part IV A, dated 3-12-1964.

manner by the Chairman of the
rative Societies in the block from
selves.

- (ii) One representative elected in the presence
by the Chairman of the Cooperative
any, having area of operation in the
- (iii) Chairman, of the marketing cooperative
if any, having area of operation in the
- (iii) Chairman of the marketing cooperative
if any, having area of operation in the

It will be seen that the membership of Krish
the cooption of two persons with experience in ad
public life or rural development in the Panchayat

¹[9 *Additional members of Panchayat Samiti*—An Up-Sarpanch referred to in sub-section (5) of section 12 or a Sarpanch referred to in sub-section (5A) of that section shall, so long as he continues to hold the office of the Pradhan of a Panchayat Samiti, be an additional member of that Panchayat Samiti.]

²[10. *Associate members of Panchayat Samitis*.—(1) The following persons shall be associate members of a Panchayat Samiti, namely:—

- (a) one representative elected, in the prescribed manner by the chairmen of the service co-operative societies in the block, from amongst themselves;
- (b) one representative elected, in the prescribed manner, by the chairmen of the co-operative societies in the block other than those referred to at (a) and (c) from amongst themselves; and
- (c) chairmen of the marketing co-operative societies, if any, having area of operation in the block.

(2) An associate member of the Panchayat Samiti shall have the right to speak in, or otherwise to take part in, the proceedings of, the Panchayat Samiti and of any committee of the Panchayat Samiti of which he may be elected as a member, but shall not be entitled to vote thereat; and shall not be eligible to be elected as Pradhan or Up-Pradhan or Chairman of Standing Committee :

Provided that an associate member shall have a right to vote in proceedings relating to such matters of production programme as may be prescribed.

1. Substituted and deemed to have been substituted from 9.11-1960 by sec. 6 of Rajasthan Act No. 11 of 1961 published in Rajasthan Gazette Extraordinary Part IV-A dated 5-4-1961.

2. Substituted by Raj Act No. 32 of 1964, published in Raj. Gaz, Extraordinary Part. IV A, dated 3-12-64

Explanation.—For the purposes of this section,—

- (a) “co-operative society” means a society registered or deemed have been registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act 4 of 1953);
- (b) “marketing co-operative society” means a co-operative society formed for the purpose of marketing agricultural or other produce and includes among its objects, the supply of the requisites of such production;
- (c) “service co-operative society” means a co-operative society formed with the object of obtaining for its members the credit, goods or services required by them.]

Comments

Associate membership:—

The members of the State Legislature returned from the area comprised in a Samiti become associate members of the Samiti by virtue of their office and continue to remain such members till they remain members of the State Legislative Assembly. Such members have no right to vote, nor they can be elected as a Pradhan or as the Chairman of any standing committee. They only take part in the deliberations of the meetings of the Panchayat Samiti or any standing committee thereof and hence notice of each such meeting should be given to the associate members. In a meeting called to consider a motion of no-confidence the associate members are entitled to be invited, even though they have no right to vote on the motion. If however, a Sarpanch, Krishi Nipun or a Pradhan becomes an M.L.A., then he shall have all rights of a full fledged member with all voting rights and the provisions of Section 10 shall not apply to him.

11. Special meeting for co-option of members.—(1) The Collector shall, on a date previously to the date appointed for the constitution of a Panchayat Samiti under section 7, or, subject to the provisions of sub-section (4) of section 7, on every occasion when the Panchayat Samiti is reconstituted, convene at the office of the Panchayat Samiti, at the appointed time, a special meeting of the members of the Panchayat Samiti specified in ¹[clauses (i) and (ia) of sub-section (1) of section 8] after giving them a notice in writing of not less than seven clear days of such meeting, for the co-option of the members specified in sub-section (2) of section 8.

(2) The Collector ²[himself] or the Additional Collector or a Sub-Divisional Officer ³[or any other subordinate official]

1. Substituted by sec. 7 (i) of Rajasthan Act No. 11 of 1961 published in Rajasthan Gazette Extraordinary Part IV-A dated 3-1-1962.

2. Inserted by sec. 7 (iii).....ibid.

3. Inserted by sec. 7 (ii).....ibid.

officer authorised in this behalf by the Collector] shall preside at such meeting.

(3) If for want of the necessary quorum or for any other sufficient reasons the members of the Panchayat Samiti referred to in sub-section (1) fail to co-opt members specified in sub-section (2) of section 8, the 'Collector ¹[himself] or the Additional Collector or a Sub-Divisional Officer ²[or any other subordinate gazetted officer authorised in this behalf by the Collector] presiding over the meeting shall adjourn the same to another date not less than seven days after the date appointed under sub-section (1), and the presence of the necessary quorum shall not be required at such adjourned meeting.

(4) A notice of the date fixed for the adjourned meeting shall be affixed on the notice board of the office of the Panchayat Samiti and shall be despatched by post under a certificate of posting individually to the members specified in ³[clauses (i) and (ia) of sub-section (1) of section 8] immediately after the adjournment of the previous meeting under sub-section (3) and upon such despatch the notice shall be regarded as having been served on the members within the ordinary course of the post.

(5) The Collector ¹[himself] or the Additional Collector or a Sub-Divisional Officer ²[or any other subordinate gazetted officer authorised in this behalf by the Collector] shall preside at such adjourned meeting also and, if at such adjourned meeting the members of the Panchayat Samiti specified in ³[clauses (i) and (ia) of sub-section (1) of section 8] fail to co-opt any of the members specified in sub-section (2) of that section, the State Government shall nominate such member or members and every member so nominated shall be deemed to have been duly co-opted.

Comments

Notice period:—

Seven clear days notice is necessary for calling a meeting

1. Inserted by sec. 7(iii) of Raj. Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-1961.
2. Inserted by sec. 7 (ii) *ibid*.
3. Substituted by sec. 7 (i)—*ibid*.

under this Section. The period of excluding the day of the service of and the day fixed for holding the must intervene between the two service of notice and the date of the

2. *Quorum for the meeting under thi*

The reference to necessary qu this section suggests that minimum holding a meeting for co-option. rules, this quorum is one third o members of the Samiti. No quoru when nomination papers are filed l site quorum at the time of the v Collector or any other officer who shall not be considered to be a mem! quorum (Bhikh Singh V. Abdul Zai Chand V. Ganesh Narain S. B. Ci on 27th Decemb

3. *Taking of o* *under this sectic*

In Mool (decided by the members is not papers, but the office before exe ceedings.¹

4. *Only Sarpanc*

From Sub & (ii) of section only the member (1) of sec. 8 the S the M. L. A of the proceedings and

1. *Nirmal*

5. *Members once nominated can not be replaced :—*

Sub-section (5) provides for the nomination of members in certain contingency by the State Government. A person once nominated cannot be replaced by the Government under its implied powers of removal, inherent in the powers of appointment under the Rajasthan General Clauses Act. A person once nominated can be removed only under the provisions of Section 16 of the Act but the State Govt. cannot cancel the order of nomination of one person and nominate another person in his place.¹

12. *Election and term of office of Pradhan and Up-Pradhan of a Panchayat Samiti and filling up of vacancies—[(1)*

²[(1) Every Panchayat Samiti shall have—

(a) a Pradhan who shall be elected by—

(i) the members of the Panchayat Samiti specified in clauses (i), (ii) and (iv) of sub-section (1) of section 8; and

(ii) all members of the Panchayats in the block, specified in clauses (b) and (c) of sub-section (1) of section 4 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953):

Provided that no person shall be eligible to be elected as Pradhan unless he is a voter of any Panchayat or a member of any Gramsabha established under section 8 of the Rajasthan Gramdan Act, 1960 (Rajasthan Act 3 of 1960) in, and a resident of, the block and is able to read and write Hindi :

Provided further that no person shall be entitled to be elected or to continue as Pradhan if he is or becomes a member of the State Legislature or Parliament :

1. Kanta Devi V. State of Rajasthan 1956 RLW 69.

2. Substituted by sec. 15 of the Raj. Act No. 32 of 64.

Provided also that election to the office of a Pradhan Up-Pradhan may be held notwithstanding the failure of any Panchayat or Panchayat Samiti to co-opt any members at the first meeting convened for such co-option and any election so held shall be valid notwithstanding such vacancies;

- (b) an Up-Pradhan, who shall be elected by the Panchayat Samiti other than those specified in clause (iii) of sub-section (1) of section 8 from amongst the members specified in clause (i) and (iv) of sub-section (1) of the said section.

(1-A) A Pradhan shall, unless he is already a member, be an additional member of the Panchayat Samiti and shall in all respects and for all purposes, be deemed to be an ex-officio member of the Panchayat Samiti specified in clause (i) of sub-section (1) of section 8.]

(2) As soon as may be after the co-option of members mentioned in subsection (2) of section 8 and as often as the office of the Pradhan becomes vacant,² [election to the office of the Pradhan shall be conducted in the prescribed manner.]

(3) As soon as may be after the election of the Pradhan and as often as the office of the Up-Pradhan becomes vacant, a meeting for electing the Up-Pradhan shall be convened by the Pradhan in the prescribed manner.

2. Substituted by sec 15 of Rajasthan Act No. 32 of 1964
in Raj. Gaz, Extra, Part IV-A, dated 3-12-1964.

FOR STANDARD
&
UPTODATE BOOKS

ON

**PANCHAYATS, PANCHAYAT SAMITIS
& ZILA PARISHADS LAWS**

HINDI OR ENGLISH

ite To:—

ALOK BHARTI PUBLICATIONS

P.B. 148 JAIPUR

**JWALA WEEKLY OFFICE M. I. ROAD
JAIPUR (Raj)**

(4) Every election under sub-section (2) or sub-section (3) shall be by secret ballot.

(5) If the ¹[×××] Up-Sarpanch of a Panchayat ²[×××] is elected as the Pradhan of a Panchayat Samiti, he shall, on and from the date of his election as such, cease to be, and vacate the office of, the ¹[×××] Up-Sarpanch of the Panchayat ²[×××] but such cessation shall not affect in any way his election as such Pradhan and he shall continue to hold the office of Pradhan as though he had been duly elected thereto as an additional member of the Panchayat Samiti.

³[(5A) If the Sarpanch of a Panchayat is elected as the Pradhan of a Panchayat Samiti—

(i) he shall, on and from the date of his election as such Pradhan, nominally continue to be the Sarpanch of that Panchayat for so long as he would have but for such election held the office of such Sarpanch,

(ii) during that period he shall neither have any hand in the administration of the affairs of that Panchayat nor participate in the meetings thereof,

(iii) he shall hand over charge of all papers and properties pertaining to his office as Sarpanch, as provided in section 15-A of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953), to the Up-Sarpanch of the Panchayat who shall thereafter act, during that period, as Sarpanch for all practical purposes and represent the Panchayat on the Panchayat Samiti concerned as a member of the latter,

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1. Omitted and deemed to have been omitted from 9-11-60 by sec. 8 (ii) of Rajasthan Act No.11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-1961.
 2. Omitted by Raj. Act No. 25 of 1960 published in Rajasthan Gazette Extraordinary, Part IV-A, dated 24-8-1960.
 3. Inserted and deemed to have been inserted from 9-11-1960. by section 8 (iii) of Raj. Act No. 11 of 1961 published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-1961.

(iv) fresh elections to the office of the Sarpanch of that Panchayat shall not be held during the said period, and

(v) if during that period he vacates the office of the Pradhan upon removal or otherwise, he will resume charge of the office of the Sarpanch and shall as such as replace the Up-Sarpanch as a representative of the Panchayat on the Panchayat Samiti].

(6) Save as otherwise provided in this Act, the term of office of every Pradhan or Up-Pradhan shall be co-extensive with the term of the Panchayat Samiti, of which he is elected Pradhan or Up-Pradhan, as the case may be.

(7) When a vacancy occurs in the office of the Pradhan or the Up-Pradhan before the expiration of the term thereof, the person elected as Pradhan or Up-Pradhan in that vacancy shall hold office for the residue of the term of his predecessor.

Comments

Rules

The election of a Pradhan and Up-pradhan of a Panchayat Samiti is held in accordance with the rules made by the Government in this behalf. These rules were published in Government Gazette Part IV-C dated 10-9-1959 under Planning and Dev. Deptt. notification No. F. 45 (173) (72) Coord/DD/59 dated 10-9-59. According to these rules the members to the Panchayat Samiti elect their Pradhan. No quorum is necessary for a meeting called for the purpose of electing the Pradhan vide 1961 RLW 649 (Bikh Singh V. Abdul Zalil). In this case, the Rajasthan High Court held that the Panchayat Samitis (Conduct of Business) Rules prescribing a quorum for the meeting of the Panchayat Samiti does not apply to the meeting called for electing a Pradhan or an Up-pradhan.

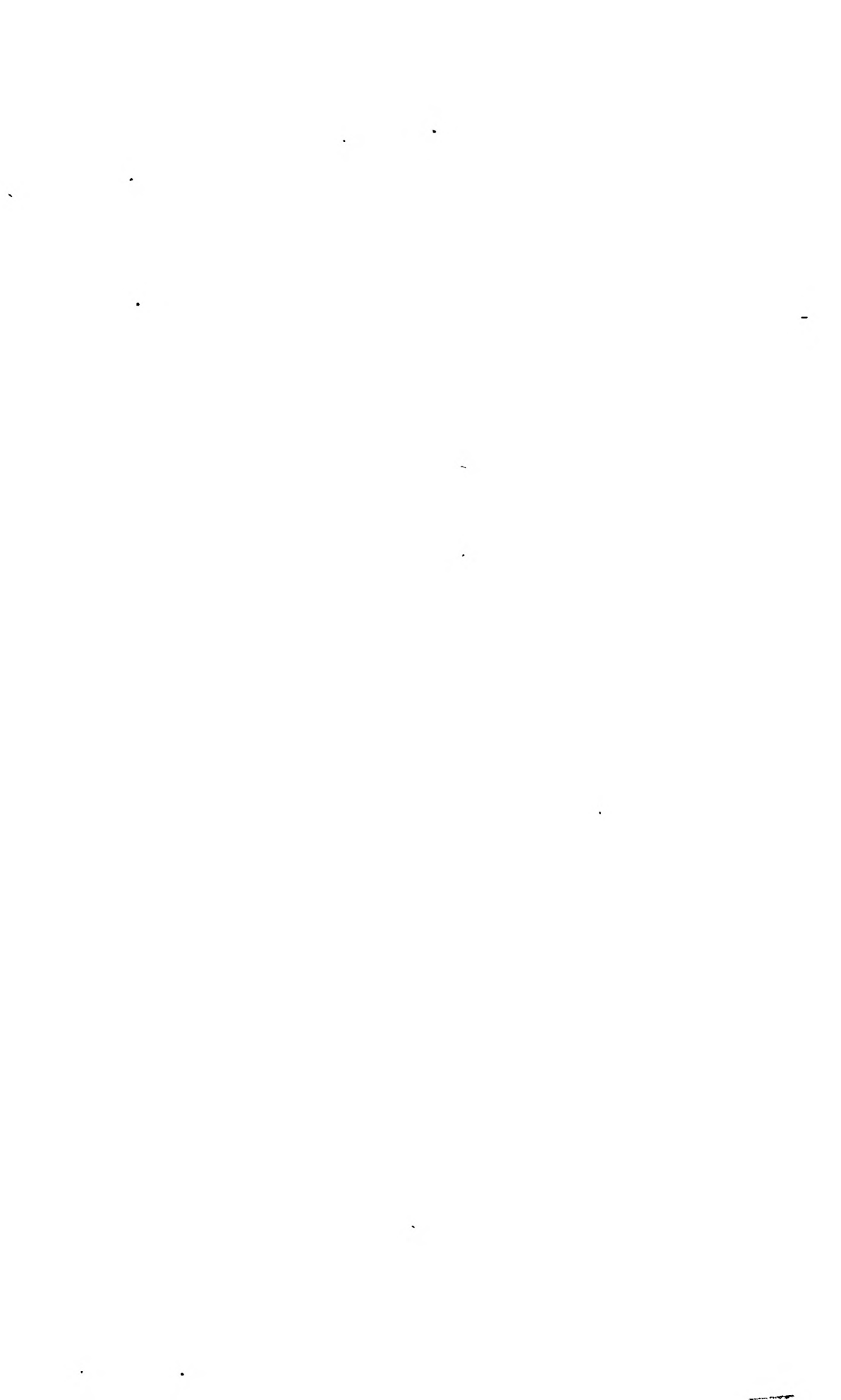
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YOUR BOOK AS PAGE 16A**

Election of Pradhan :

According to the amended provisions of this section the election of a Pradhan shall be held by a broad-based electoral college consisting of (i) ex-officio and co-opted members of the Panchayat Samiti (excluding the Sub-Divisional Officer) and (ii) all the elected and co-opted members of the Panchayats in the block. A person to be eligible for the office of the Pradhan should merely be a voter of any Panchayat or a member of any Gram Sabha established under Section 8 of the Rajasthan Gramdan Act, 1960 and a resident of the block and must also be able to read and write Hindi. It has been specifically provided that an M.L.A. or an M.P. shall not be entitled to be elected or continue as a Pradhan.

In order that the schedule of elections of Pradhan is not held up by the failure of any panchayat or Panchayat Samiti to co-opt any members, it has been provided that the election of Pradhan or Up-Pradhan shall be valid in spite of any such vacancies.

It will be noticed that an ordinary voter in the Panchayats in the block is now entitled to contest the election for the office of the Pradhan. It has, therefore, been provided that a Pradhan, unless he is already a member, shall be an additional member of the Panchayat Samiti and shall in all respects and for all purposes be deemed to be an ex-officio member of such Samiti.



13. *Dispute as to election under section 12.*—(1) The election of a Pradhan or Up-Pradhan of a Panchayat Samiti may be called in question by any member thereof by presenting in the prescribed manner to the Judge a petition in this behalf on the prescribed grounds and within the prescribed period.

(2) A petition presented under sub-section (1) shall be heard and disposed of in the prescribed manner and the decision of the Judge thereon shall be final.

Comments

Rules

Rules for filing an election petition are published at page 30 of part II of this volume.

14. *Term of office.*—(1) Subject to the provisions contained in sub-section (2), the term of office of a Panchayat Samiti shall be three years ¹[with effect from such date as may be notified by the State Government in this behalf] :

³[Provided that the State Government may, by notification in the official Gazette, extend from time to time, the said term by a period not exceeding one year in the aggregate :

Provided further that] the term of a Panchayat Samiti constituted under this Act before the 31st day of January, 1961 ²[or such other date as may be notified by the State Government in this behalf] shall not extend beyond that date.

(2) Save as otherwise provided in this Act—

1. Inserted and shall be deemed to have been inserted from 28-10-60 by section 9 (i) (b) of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

2. Inserted by Section 9 (1) (b) of Rajasthan Act No. 11 of 1961—ibid.

3. Inserted by Section 2 of Rajasthan Act No. 11 of 1964, published in the Rajasthan Gazette, Part

(a) a member specified in ¹[clause (i)] of sub-section (1) of section 8 shall hold office so long as he continues to be the Sarpanch of the Panchayat ²[× × ×] ;

³[(aa) a Krishinipun shall hold office for a term of one year unless before the expiration of such term he ceases to be the Krishinipun of the block :

Provided that the Zila Parishad may extend the term by a period not exceeding one year but such extension shall cease to be operative if the member ceases to be the Krishinipun of the block at an earlier date];

(b) a member co-opted under clause (e) of the proviso to sub-section (1) of section 8 shall hold office till the constitution or reconstitution of the Panchayat ²[× × ×] and the election of its Sarpanch;

⁴[(bb) every member co-opted under clause (i) of sub-section (2) of section 8 shall hold office so long as he continues to be the president of any of the Gram Sabhas of gramdan village or group of gramdan villages which he represents];

(c) a member co-opted under ⁵[clause (vi)] of sub-section (2) of section 8 shall hold office for one year unless before the expiration of such term he ceases to be ⁵[× × ×] member of the managing committee of the co-operative society functioning in the block.

⁶[Provided that a person co-opted under clause (vi) of sub-section (2) of section 8 as the member of a first

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1. Substituted by Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary Part IV--A, dated 24-8-1960.
 2. Omitted by Rajasthan Act No. 25 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A dated 24-8-60.
 3. Inserted and shall be deemed to have been inserted from 28-10-60 by section 9(1)(a) of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, date 5-4-61.
 4. Inserted & deemed to have been inserted from 9-11-60 by Sec 9(2)(b)-ibid.
 5. Omitted and deemed to have been omitted from 9-11-60 by Sec. 9(2)(c) (i) of Rajasthan Act—ibid.
 6. Substituted and deemed always to have been substituted by Sec. 9(2)(c) (ii) of Rajasthan Act—ibid.

Panchayat Samiti constituted under this Act before the 31st day January, 1961, shall continue to hold office as such member until the reconstitution of that Panchayat Samiti];

(d) a member co-opted under clause (ii) or clause (iii) or clause (iv) or clause (v) or clause (vii) of subsection (2) of section 8 shall hold office for the full term of the Panchayat Samiti.

Comments

Term of a Co-opted member elected as a Pradhan.—

If a co-opted member or a Krishi Nipun is elected as a Pradhan, then he shall not remain Pradhan for the full term of three years, but shall cease to remain a Pradhan as soon as his term as a co-opted member or a Krishi Nipun expires and fresh election for office of the Pradhan shall be held after holding by co-option to fill the vacancy caused by the exit of the out-going co-opted member on the expiry of the term of his office.

15. *Disqualifications for becoming a member:—*A Person shall be disqualified to become a member of the Panchayat Samiti, if he—

¹[(a) holds a salaried whole-time appointment under the Central Government, a State Government or a local authority];

(b) is under twenty five years of age,

(c) has been dismissed from Government service for misconduct involving moral turpitude and has been declared to be disqualified for employment in the public service.

1. Substituted by section 10(i) of Rajasthan Act No. 11 of 1960, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

(d) holds any salaried post or place of profit in the gift or disposal of the Panchayat Samiti,

¹[(e) has directly, by himself or by his partner, employer or employee, any share or interest in any subsisting contract entered into in the course of his trade or business with, by, or on behalf of, the Panchayat Samiti for the supply of goods to, or for the execution of any work undertaken by that Panchayat Samiti, while owning such share or interest otherwise than as a member of a co-operative society or as a share-holder other than the Director of a company],

(f) is a leper or is suffering from other bodily or mental defect or disease rendering him incapable for work,

(g) has been convicted by a competent court of an offence involving moral turpitude or of an offence under the Untouchability (Offences) Act, 1955 (Central Act 22 of 1955) or under any other law notified in this behalf by the State Government,

(h) is an undischarged insolvent,

(i) has not paid, for two months from the date of presentation of the bill therefor the amount of any tax or fee imposed by the Panchayat Samiti under this Act or by the Panchayat under the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953),

(j) is employed as a legal practitioner on behalf of or against the Panchayat Samiti,

(k) is disqualified for election as the Sarpanch or Up-Sar-

Substituted and deemed to have been substituted from 12-12-60 by Sec. 10 (ii) of Rajasthan Act No. 11 of 1960, published in Rajasthan Gazette, Extraordinary, dated 5-4-1961.

panch or Panch of a Panchayat ¹[XXX] ²[or as the Chairman or member of a Nyaya Panchayat] under sub-section (4B) of section 17 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953),

(b) is disqualified for election as Pradhan or Up-Pradhan under sub-section (3) of section 40 :

Provided that—

- (i) for the purposes of clauses (c) and (g), any person shall become eligible for election after a lapse of six years from the date of his dismissal or conviction, as the case may be, or earlier if he is declared eligible for election by a general or special order of the State Government in this behalf, and
- (ii) for the purpose of clause (i), a person deemed to be disqualified if he has paid of such tax or free due from him before filing his nomination paper.

Comments

1. Qualification to exist on the date of filling of nomination papers:—

This section prescribes the disqualifications a person ineligible for the membership of Panch. If any of these disqualifications are attached to a person on the date of the filling his nomination paper, his nomination paper shall be rejected. The crucial qualifications or otherwise in a candidate's nomination paper by him. Sub

1. Omitted vide section 70 (V) of R. Act, 1959, published in Rajasthan Gazette, Extraordinary.

2. Inserted from 9-11-60 and shall be deemed to have been inserted by section 10 of Raj. Act No. 11 of 1961, published in Part IV-A, Extraordinary, dated, 5-4-61.

quisite qualification or removal of any disqualification, even before the date of the scrutiny of the nomination paper will be of no avail. A candidate must be qualified on the date of the filling of his nomination paper.

2. *Removal of disqualifications:—*

This section lays down certain conditions under which any disqualification once incurred by a candidate can be automatically removed. If, therefore, a candidate is eligible for being elected as a Sarpanch or for being co-opted as a member he can be so elected or co-opted, if he is of 25 years of age and is not subject to any of the disqualifications mentioned in section 15, being in the regular service of Central or State Government or a local body, having been dismissed from the Government service for misconduct involving moral turpitude, as for example theft, bribery, forgery, embezzlement etc. There are twelve disqualifications enumerated in clauses (a) to (l) none of which should exist in a candidate on the date of filling of his nomination paper.

16. *Cessation of membership.*—¹[(1)] Subject to the provisions of section 17, a member of a Panchayat Samiti ²[shall not be eligible to continue] to be such member if he—

(a) is or becomes subject to any of the disqualifications specified in section 15, or

(b) ceases to reside in the blocks,

(i) in the case of a Pradhan, for 240 days, and

(ii) in any other case, for 180 days,

in the aggregate in any year commencing from the date of his election, co-option or nomination, as the case may be:

-
1. Re-numbered and deemed to have been renumbered from 9-11-1960 by section 11 (a) of Rajasthan Act No. 11 of 1961 published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-1961.
 2. Substituted and deemed to have been substituted from 9-11-1960 by section 11 (6) (i) of Rajasthan Act.....bid.

Provided that the provision contained in this clause shall not apply to a member co-opted under clause (vii) of sub section (2) of section 8 if he is not elected as the Pradhan of the Panchayat Samiti to which he has been co opted:

Provided further that, if the Pradhan so resides in any municipality surrounded by or adjoining the block of which he is the Pradhan, he shall, for the purpose of this clause, be deemed to be residing in the block, or

(c) has absented himself from five consecutive meetings of the Panchayat Samiti without the previous permission of the Pradhan:

Provided that, if the Pradhan is inclined to refuse such permission, he shall obtain the approval of the Panchayat Samiti to such refusal, or

¹[cc) despite having been nominated by the Zila Parishad thrice for the purpose, fails to attend the Adhyayan Kendra to pursue the prescribed course of study, or] ;

(d) resigns his office, or

(e) dies.

²[(2) Whenever it is made to appear to the State Government that the Pradhan or a member of a Panchayat Samiti has become ineligible to continue to be such Pradhan or member for any of the reasons specified in sub-section (1), the State Government may, after giving him an opportunity of being heard, declare him to have become so ineligible and thereupon

1. Inserted and shall be deemed to have been inserted from 9-11-60 by section 11 of Rajasthan Act No. 11 of 1961, published in Raj. Gazette Extraordinary Part IV-A, dated 5-4-61.

2. Inserted and shall be deemed to ha-

he shall vacate his office as such Pradhan or member, as the case may be:

Provided that no such opportunity shall be given if, such Pradhan or member has been determined by the Judge under section 17 to be or to have become disqualified under section 15:

Provided further that, until a declaration under this subsection is made, he shall continue to hold his office.]

Comments

This section provides for the cessation of membership of a Panchayat Samiti under certain circumstances. Cessation of membership takes effect from the date of the incurring the disqualification mentioned in sec 15 or on the happening of any of the events mentioned in clauses (b), (c), (d) or (e) of Section 16. These are as follows:—

(a) when a member is or becomes subject to any of the disqualifications mentioned in section 15, or

(b) ceases to reside in the block for the requisite period; or

(c) absents himself from five consecutive meetings of the Panchayat Samiti without previous permission of the Pradhan. A meeting held but adjourned for want of quorum shall be taken into account in counting the five consecutive meetings.¹

(d) resigns; or

(e) dies; or

(f) Fails to make the oath of his office within three months of the date on which the term of his office commences. The term of office of a member commences from the date of the declaration of his result.

1. Ladhu Ram V. C. P. O. 1962 RLW 139.

17. *Judge to decide questions of disqualifications.*—(1) Whenever it is alleged that any member of a Panchayat Samiti is or has become disqualified and such member does not admit the allegation, or whenever any member is himself in doubt whether or not he is or has become disqualified for the office, such member ¹[or the State Government] or any other member may, and the Pradhan at the request of the Panchayat Samiti shall, apply to the Judge for a decision on the allegation or doubt.

(2) The Judge, after making such inquiry as he considers necessary, shall determine whether or not such member is or has become disqualified and his decision shall be final.

(3) Pending such decision the member shall be entitled to act as if he were not disqualified.

²[18. *Filling up of vacancies.*—(1) Any vacancy occurring in the office of a co-opted member before the expiration of the term of office of a Panchayat Samiti as provided for in sub-section (1) of section 14 or before the expiration of his term of office as provided for in sub-section (2) of section 14 shall be filled by co-option of another person in the manner provided in section 8 and the person so co-opted shall hold office—

(i) in the first case, for the term of his office as provided for in sub-section (2) of section 14 or for the residue of the term of office of the Panchayat Samiti, whichever may be shorter, and

(ii) in the second case, for the residue of the term of office of his predecessor:

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1. Inserted and deemed to have been inserted from 9-11-1960 by sec. 12 of Raj. Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-1961.
 2. Substituted by sec. 2 of Rajasthan Act No. 13 of 1962 published in Rajasthan Gazette Extraordinary Part IV-A dated 30-5-1962.

Provided that the meeting for such co-option shall be convened and presided over by the Pradhan or in his absence by the Up-Pradhan within a month of the occurrence of the vacancy, failing which the Collector shall, on being apprised of the vacancy and such failure, convene for the purpose a special meeting of the Panchayat Samiti and the provisions of section 8 shall, so far as may be, apply to such special meeting, to the convening thereof and to the filling up of the vacancy by the State Government.

(2) Notwithstanding anything to the contrary contained in any rule of law or interpretation or in any order, judgement or decision of a competent court, authority or officer, all vacancies filled in accordance with sub-section (1) as amended by the Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Act, 1962, shall be deemed to have been filled as if the said sub-section existed at the time of the filling up of the vacancy.]

Comments

1. Meeting for by co-option:—

This section is new and provides that if the Pradhan or the Up-pradhan does not hold a meeting for by-co-option within one month of the occurrence of a vacancy, the Collector shall call such a meeting and have the by co-options made. The Vikas Adhikari should immediately inform the Collector, if the Pradhan does not hold the meeting for by-co-option within one month of the occurring of the vacancy. However, if the collector also does not call such a meeting then the Pradhan will be within his right to call the same and hold the bye-co-option. A meeting called by the Pradhan even after one month of the occurrence of the vacancy will not be invalid if the collector also does not take any steps for calling such a meeting. If, however, the collector Calls such a meeting by issuing a notice therefor, then the Pradhan's right to call such a meeting will

come to an end, and any meeting so called and there after the proceedings of co-options taken thereat shall be null and void.

2. *Right of vote at by co-option:—*

As in the co-option so also in the by-co-option, only the members referred above in clauses (i) and (ia) of section 8(1) i.e. the sarpanchas and the Krishi Nipun alone be entitled to vote and no one else. The other-co-opted member shall have no right to take part in the co-option proceedings.

19. *Resignation of the Pradhan, Up-Pradhan or member.*—The Pradhan, the Up-Pradhan or any member may resign his office as such Pradhan, Up-Pradhan or member by giving notice in writing to the Panchayat Samiti. Such resignation shall take effect on and from the date on which the notice is received by the Vikas Adhikari :

Provided that the resignation of the Pradhan shall take effect on and from the date on which the sanction thereto of the Pramukh is received in the office of the Panchayat Samiti.

Comments

Withdrawal of resignation by a Pradhan before its acceptance:—

According to this section, the Up-pradhan or a member of a panchayat samiti can resign his office by giving a notice in writing to this effect to the Vikas Adhikari and the resignation shall take effect from the date it reaches the Vikas Adhikari. These persons cannot, therefore, withdraw their resignations and they come into effect automatically as soon as they reach the Vikas Adhikari. The case of the Pradhan, however, is different. His resignation has to be accepted by the Panchayat Samiti and comes into effect from the date the sanction thereon is received by the Vikas Adhikari. The Pradhan can, therefore, withdraw his resignation before its acceptance is received by the Vikas Adhikari. Further as the

implies power to refuse to accept, the Zilaparishad can refuse to accept the resignation of a Pradhan. So within the time that lay between the submission of the resignation and the communication of its acceptance, the same can be withdrawn.

39. *Motion of no-confidence in Pradhan or Up-Pradhan.*—(1) A motion expressing want of confidence in the Pradhan or the Up-Pradhan of a Panchayat Samiti may be made in accordance with the procedure laid down in the following sub-sections.

(2) A written notice of intention to make the motion in such form as may be prescribed, signed by not less than one-third of the total number of members of the Panchayat Samiti, together with a copy of the proposed motion, shall be delivered in person, by any one of the members signing the notice, to the Collector having jurisdiction over the Panchayat Samiti.

(3) The Collector shall thereupon—

(i) forward a copy of the notice, together with a copy of the proposed motion, to the Pramukh of the Zila Parishad having jurisdiction over the block, who shall place the same before the Zila Parishad for its information at the next meeting thereof;

(ii) convene a meeting for the consideration of the motion at the office of the Panchayat Samiti on a date appointed by him, which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him; and

(iii) give to the members notice of not less than fifteen clear days of such meeting in such manner as may be prescribed.

Explanation.—In computing the period of thirty days specified in this sub-section, the period during which a stay order, if any, issued by a competent court

on a petition filed against the motion made under the section is in force, shall be excluded.

(4) The Collector shall preside at such meeting :

Provided that if, for reasons to be recorded in writing, he is unable to do so, the Additional Collector shall so preside.

(5) A meeting convened for the purpose of considering a motion under this section shall not be adjourned.

(6) As soon as the meeting convened under this section commences, the Collector shall read to the Panchayat Samiti the motion for the consideration of which the meeting has been convened and declare it to be open for debate,

(7) No debate on the motion under this section shall be adjourned,

(8) Such debate shall automatically terminate on the expiration of two hours from the time appointed for the commencement of the meeting if it is not concluded earlier. On the conclusion of the debate or on the expiration of the said period of two hours, whichever is earlier the motion shall be put to vote.

(9) The Collector shall not speak on the merits of the motion and he shall not be entitled to vote thereon.

(10) A copy of the minutes of the meeting, together with a copy of the motion and the result of the voting thereon, shall be forwarded forthwith on the termination of the meeting by the Collector to the State Government and to the Zila Parishad having jurisdiction.

(11) If the motion is carried with the support of not less than two-thirds of the total number of members of the Panchayat Samiti,—

(a) the Collector shall cause the fact to be published by affixing a notice thereof on the notice board of the office of the Panchayat Samiti and by notifying the same in the Official Gazette, and

(b) the Pradhan or Up-Pradhan, as the case may be, shall cease to hold office as such and vacate the same on and from the date on which the said notice is affixed on the notice board of the office of the Panchayat Samiti:

¹[Provided that such Pradhan shall continue to hold office as a member of the Panchayat Samiti as provided in clause (v) of sub-section (5A) of section 12.]

(12) If the motion is not carried as aforesaid or if the meeting could not be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same Pradhan or Up-Pradhan shall be made until after the expiration of six months from the date of such meeting and such subsequent motion, if supported by a majority of the total number of members of the Panchayat Samiti, shall be deemed to have been carried and the other provisions of sub-section (11) shall apply.

(13) No notice of a motion under this section shall be made within six months of the assumption of office by a Pradhan or Up-Pradhan, as the case may be.

Comments

No-confidence motion:—

A motion of no-confidence can be brought against a Pradhan or an Up-pradhan in accordance with the rules made in this behalf. These rules may be seen at page—of this volume.

1, Added and shall be deemed to have been added from 9-11-60 by section 19 of Rajasthan Act No. 11 of 1961, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.

In a motion of no confidence, the members of the Legislature who are associate members should also be called although they have no right to vote, when the motion is put to vote. Quorum of one third member of the total number of members is required for the meeting which is called to discuss the motion of no-confidence. The Collector who presides at such meeting shall not be counted as a member for the purposes of the quorum. In such a motion the person against whom it is brought shall have right to give vote.¹

40. *Power of Government to remove Pradhan or Up-Pradhan*² [or member].—(1) If in the opinion of the State Government the Pradhan or up-Pradhan ²[or member] of a Panchayat Samiti wilfully omits or refuses to carry out the orders of the State Government for the proper working of the Panchayat Samiti or abuses the powers vested in him or is found to be guilty of mis-conduct in the discharge of his duties, ³[or of any disgraceful conduct] the State Government, after giving the Pradhan or Up-Pradhan ²[or member], as the case may be, a reasonable opportunity for explanation and after consulting the Zila Parishad in the matter and taking into consideration its opinion if received within thirty days from the date of the despatch of the communication for such consultation, may by order remove such Pradhan or Up-Pradhan ²[or member], as the case may be, from office :

⁴[Provided that the member of a Panchayat Samiti shall be so removable from his office only if he is found to have abused his powers as such member or to have been guilty of his conduct in the discharge of his duties ³[or of any disgraceful conduct] as such member.]

1. Shyam Sunder Vs. State-Raj. 1959 RLW 211.

2. Inserted and deemed to have been inserted from 5-11-1959. by sec. 20 (i) of Raj. Act No. 11 of 1961 published in Rajasthan Gazette Extraordinary, Part IV-A, dated 5-11-59.

3. Inserted by Sec. 3 of the Raj. Act No. 2 of 1956, published in Rajasthan Gazette Part IV-A, Extra. dated 2-1-56.

4. Added by sec. 20 (ii) of Rajasthan Act No. 11 of 1961 published in Rajasthan Gazette Extraordinary, Part IV-A, dated 5-11-59.

(2) The State Government may, during the course of any inquiry under sub-section (1), suspend a Pradhan or Up-Pradhan ¹[or member] against whom the inquiry has been started, and debar him from taking part in any act or proceeding of the Panchayat Samiti while under such suspension.

[3] A Pradhan or Up-Pradhan ¹[or member], removed from his office under this section, shall not be eligible for re-election as Pradhan or Up-Pradhan ¹[or member] for a period of three years from the date of his removal.

²[(4) Any such inquiry as is referred to in sub section (1) may be initiated even after the expiry of the term of a Panchayat Samiti, or, if already initiated before such expiry, may be continued thereafter and in any such case the State Government shall, by order, only record its findings on the charges levelled against a Pradhan, Up-Pradhan ¹[or member] of the Panchayat Samiti during its term of office.

(5) A Pradhan, Up-Pradhan ¹[or member] against whom findings have been recorded under sub-section (4) shall also incur the disqualification mentioned in sub-section (3).]

Comments

This section has been amended twice—once by the Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Act, 1961 and again by the Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Act, 1963. By the first amendment, powers were given to the State Government to remove also a member of a panchayat samiti for certain acts or omissions in the discharge of his duties. These acts and omissions were confined to the discharge of the official duties by

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1. Inserted and deemed always to have been inserted from 9-11-1960 by section 20(i) of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61.
 2. Added by sec. 20 (iii) of Rajasthan Act—ibid.

the Pradhan, Up-pradhan or the member. However, with the second amendment by which the words "or for any disgraceful conduct" which have been inserted in this section, a Pradhan, Up-pradhan or a member or a Panchayat Samiti can be removed from his office for any disgraceful conduct not directly related to his official duties. If for example, a Pradhan is found guilty of committing rape, he was not removeable under this section as it stood before the amendment made therein by section 2 of the Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Act, 1963. This difficulty has now been removed by this latest amendment.

41. *Filling up of vacancies caused by action taken under sections 39 and 40.*—When the Pradhan or Up-Pradhan, as the case may be, ceases to hold and vacates his office under section 39 ¹[or when the Pradhan or Up-Pradhan or member, as the case may be, is removed from his office under section 40] the vacancy so caused shall, subject to the provisions contained in section 15 and sub-section (3) of section 40, be filled in the manner specified in section 12 ²[or in section 18, as the case may be].

CHAPTER III

Zila Parishads

42. *Constitution, incorporation and composition of Zila Parishads.*—(1) The State Government may, by notification in the Official Gazette, constitute a Zila Parishad for a district with effect from such date as may be specified therein.

(2) Every Zila Parishad shall bear the name of the district for which it is constituted and shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to enter into contracts and may, by its corporate name, sue and be sued.

1. Substituted and deemed to have been substituted from 9-11-1960 by sec. 21 (i) of Rajasthan Act No. 11 of 1961 published in Rajasthan Gazette Extra., Part IV-A dated 4-5-61.

2. Inserted and deemed to have been inserted from 9-11-1960 by sec. 21 (ii) of Rajasthan Act--ibid.

(3) Every Zila Parishad shall consist of the following members, namely:—

(i) the Pradhans of all Panchayat Samitis in the district :

Provided that if any Pradhan of a Panchayat Samiti refuses to be a member of the Zila Parishad or resigns such membership or otherwise ceases to be such member, he shall, as from the date of such refusal, resignation or cessation, cease to be the Pradhan of the Panchayat Samiti and the person who succeeds him in such office shall be the member of the Zila Parishad :

Provided further that—

(a) if the office of the Pradhan of a Panchayat Samiti in the district is vacant, the Up-Pradhan thereof shall, until the vacancy is filled up, be the member of the Zila Parishad, and .

(b) if the offices of both the Pradhan and the Up-Pradhan of a Panchayat Samiti in the district are vacant, any person elected by the Panchayat Samiti from among its members shall, until either of the two vacancies is filled up, be the member of the Zila Parishad;

(ii) the members of the Council of States residing in the district;

(iii) the members of the House of the People elected from a constituency which is included in or forms part of the district ;

(iv) the members of the Legislative Assembly of the State elected from the district :

Provided that, if any member of the House of the People or the State Legislative Assembly has been elected

from a constituency which lies in more than one district, such member shall be a member of the Zila Parishads of all such districts ³[XXX]:

Provided further that, where a person ceases to be a member of the Council of States or the House of the People or of the State Legislative Assembly, he shall cease to be a member of the Zila Parishad from the date on which he ceases to be such member of the Council of State or of the House of People or of the State Legislative Assembly;

⁴[(iv-a) the District Development Officer; who shall have no right to vote ;

Co-opted Members

(iv-b) members co-opted under sub-section (4) ;

Associate Members]

(v) the President of the Central Co-operative Bank in the district or, where there is no such bank, of the Central Co-operative Bank serving the district.

Provided that, if such President is an officer of the State Government, the vice-President of Such Central Co-operative Bank shall be member of the Zila Parishad.

¹[Provided further that, if both the President and the Vice-President are officers of the State Government, any person not holding any office under the State Government and nominated for the purpose by the Central Co-operative Bank shall be a member of the Zila Parishad ⁵ :

1. Added and shall be deemed to be inserted in section 22 (i) of Rajasthan Gazette, Extraordinary, Part II, Sub-section 3.
2. Inserted and shall be deemed to be inserted in section 22 (ii)—*idid.*
3. Omitted by section 22 of Rajasthan Gazette, Extraordinary, Part II, Sub-section 3.
4. Inserted by *ibid.*
5. Substituted by *ibid.*

¹[(vi) the Chairman of the district Co-operative Union, if any.]

(4) The following persons shall be co-opted ²[as members] in the prescribed manner from amongst persons residing in the district by the members mentioned in ³[clauses (i) to (iv)] of sub-section (3), namely :—

(a) two women, if no woman is the member of the Zila Parishad by virtue of sub-section (3),

(b) one woman, if only one woman is such member,

(c) one person belonging to the Scheduled Castes, if no such person is the member of the Zila Parishad by virtue of sub-section (3),

(d) one person belonging to the Scheduled Tribes, if no such person is the member of the Zila Parishad by virtue of sub-section (3) and the population of such tribes in the district exceeds five per cent of the total population of the district, and

⁵[(e) x x x]

⁴[(5) An associate member and an ex-officio member specified in clause (iv-a) in sub-section (3) shall have the right to speak in, or otherwise to take part in the proceedings of, the Zila Parishad and of any sub-Committee of such Parishad of which he may be elected member, but he shall not have a right to vote and shall not be eligible to be elected as Pramukh or Up-Pramukh or be entitled to move, or vote at the proceedings for the consideration of a motion of no-confidence against a Pramukh or Up-Pramukh :

1. Inserted by Sec. of the Raj. Act No. 32 of 64.

2. Inserted and shall be deemed always to have been inserted by section 22 of Act No. 11 of 61.

3. Substituted by Sec. 20 of Raj. Act, No. 32 of 64.

4. Inserted by *ibid.*

5. Omitted by *ibid.*

Provided that an associate member shall have a right to vote in proceedings relating to such matters of production programme as may be prescribed.]

COMMENTS

Constitution of Zila Parishad

According to the amended provisions, a zila Parishad shall consist of the following three types of members :—

(a) **Ex-officio Members :**

- (i) All Pradhans of Panchayat Samiti in the District
- (ii) Members of the Rajasthan Legislative Assembly from the District,
- (iii) Members of Parliament from the District,
- (iv) District Development officer;

(b) **Co-opted Members:—**

- (i) Two women,
- (ii) One person belonging to scheduled Caste;
- (iii) One person belonging to scheduled Tribe;

(c) **Associate Members :—**

- (i) President of the Central Cooperative Bank,
- (ii) Chairman of the District Cooperative Union.

As in the case of Panchayat Samiti, the cooption of two persons having experience in administration, public life or rural development has now been abolished in the case of Zila Parishad also.

The M L. As & M. Ps. will be full members of the Zila Parishad. They will *have voting rights and will also be entitled to hold office.*

The associate members will have a right to speak in or other-wise participate in the proceedings of the Zila Parishad

or any committee thereof but shall not be entitled to vote thereat except in the proceedings relating to such matters of production programme as may be prescribed by the rules. They shall also not be eligible to be elected as Pradmukh or Up-Pradmukh. The District Development Officer will neither have any voting rights nor will he be entitled to hold any office in the Zila Prishad.

¹[43. *Additional members of Zila Parishads :—*A Pradhan or Up-Pradhan of a Panchayat Samiti referred to in sub-section (4) of section 45 shall, so long as he continues to hold the office of the Pradmukh of a Zila Parishad, be, subject to the provision contained in sub-section (5A) of section 12, an additional member of that Zila Parishad.]

44. *Special meeting for co-optation.*—(1) Whenever the co-optation of a member or member unders sub-section (4) of section 42 is necessary, the ²[Collector] shall, on a date previously to the date appointed for the constitution of a Zila Parishad under sub-section (1) of section 42, convene for such co-optation at the office of the Zila Parishad at the appointed time a special meeting of the members specified in ⁴[Clauses (i), (ii), (iii) and (iv) of] sub-section (3) of section 42 after giving them a notice of not less than seven clear days of such meeting.

(2) The ²[Collector] or Additional ²[Collector] ³[or any other subordinate officer specially appointed for the purpose by the State Government] shall preside at such meeting ³[as the] ²[Collector] may nominate.]

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1. Substituted by section 23 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 5-4-61.
 2. Substituted vide clause (a) of Section 4, read with item (20) of schedule to Rajasthan Act No. 8 of 1962, published in Rajasthan Gazette, Extraordinary, Part IV—A, dated 23-4-64.
 3. Inserted and deemed to have been inserted from 12-12-60 by Sec. 24 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, part IV—A, dated 5-4-61.
 4. Substituted by sec. 21 of Raj. Act No. 32 of 1964, published in Raj. Gaz., Extra, Part IV—A dated 3-12-64,

(3) If for want of the necessary quorum or for any other sufficient reason the members of the Zila Praishad referred to in sub-section (1) fail to co-opt members specified in sub-section (4) of section 42, the ¹[Collector] or ¹[Additional Collector] ²[or any other subordinate officer] presiding over the meeting shall adjourn the same to any other date not less than seven days after the date appointed under sub-section (1) and the presence of the necessary quorum shall not be required at such adjourned meeting.

(4) A notice of the date fixed for the adjourned meeting shall be affixed on the notice board of the office of the Zila Parishad and shall be despatched by post under a certificate of posting individually to the members specified in ³[Clauses (i), (ii), (iii) and (iv) of] sub-section (3) of section 42 immediately after the adjournment of the previous meeting under sub-section (3) and upon such despatch the notice shall be regarded as having been served on the members within the ordinary course of the post.

(5) The ¹[Collector] or Additional ¹[Collector] ²(or any subordinate officer specially appointed for the purpose by the State Government) shall preside at such adjourned meeting also and, if at such meeting the members of the Zila Parishad specified in sub-section (3) of section 42 fail to co-opt any of the members specified in sub-section ³[Clauses (i), (ii), (iii) and

1. Substituted vide clause (a) of Section 4, schedule to Rajasthan Act No. 8 of 1962, Gazette, Extraordinary, Part IV-A, dated 2

2. Inserted and deemed to have been inserted 24 of Rajasthan Act No. 11 of 1961, published Extraordinary, part IV-A, dated 5-4-61.

3. Inserted by sec. 21 of Raj Act No. 32 of 1962, Gaz. extra, Part IV-A dated 3-12-62.

be made, notwithstanding anything in any law for the time being in force, by rules for the vacation by a person who is chosen member of the Municipal Board or Council and also a Pramukh of the Zila Parishad, of his seat as such member or the office of Pramukh.

(b) an Up-Pramukh who shall be elected, in the prescribed manner, by the members of the Zila Parishad specified in clauses (i), (ii), (iii), (iv) and (iv-b) from amongst the members specified in clause (i) of sub-section of sub-section (3) of section 42.

(1-A) A Pramukh shall, unless he is already a member, be an additional member of the Zila Parishad and shall in all respects and for all purposes be deemed to be an ex-officio member specified in clause (i) of sub-section (3) of section 42.]

(2) As soon as may be after the co-option of members mentioned in sub-section (4) of section 42 and as often as the office of the Pramukh becomes vacant, [election to the office of Pramukh shall be conducted in the prescribed manner.]

(3) As soon as may be after the election of the Pramukh of the Zila Parishad and as often as the office of the Up-Pramukh becomes vacant a meeting for electing the Up-Pramukh shall be convened by the Pramukh in the prescribed manner.

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(4) Every election, under sub-section (2) or under sub-section (3) shall be by secret ballot and, if the Pradhan or Up-Pradhan of a Panchayat Samiti is elected as Pramukh of the Zila Parishad, he shall, on and from the date of his election as such cease to be, and vacate the office of, the Pradhan or Up-Pradhan of the Panchayat Samiti, but such cessation shall not in any way affect his election as such Pramukh and he shall continue to hold the office of Pramukh as though he had been duly elected to that office as an additional member of the Zila Parishad.

¹[Provided that to the Pradhan or Up-Pradhan elected as such Pramukh, who is the Sarpanch of a Panchayat, the provisions of sub-section (5A) of section 12 shall *mutatis mutandis* apply.]

(5) The provisions of sub-sections (6) and (7) of section 12 and of section 13 shall apply *mutatis mutandis* to the Pramukh or Up-Pramukh and to his election.

46. *Term of Office.*—(1) Subject to the provisions contained in sub-section (2), the term of office of a Zila Parishad shall be three years ²[with effect from such date as may be notified by the State Government in this behalf:]

³[Provided that the State Government may, by notification in the Official Gazette, extend from time to time, the said term by a period not exceeding one year in the aggregate :

1. Added and shall be deemed to have been added from 9-11-60. by section 25 (ii) of Rajasthan Act No. 11 of 1961, published in Raj. Gazette, Extraordinary, Part IV-A-dated 5-4-61
2. Inserted and shall be deemed to have been inserted from 28-10-60 by section 26 of Rajasthan Act. No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-62.
3. Inserted by sec 4 of the Rajasthan Act No. 2 of 1964 published in the Raj. Gazette Extra. part IV-A dated 24-3-64

Provided further] that the term of office of a first Zila Parishad constituted under this Act before the 31st day of January, 1961, ¹[or such other date notified by the State Government in this behalf] shall not extend beyond that date.

(2) Save as otherwise provided in this Act—

(i) a member specified in clause (i) of sub-section (3) of section 42 shall hold office so long as he continues to be the Pradhan of the Panchayat Samiti,

(ii) a member specified in clauses (ii), (iii), (iv) and (v) of sub-section (3) of section 42 shall hold office so long as he continues to be the member of the Council of States or of the House of the People or of the State Legislative Assembly from that district, or the President or Vice-President of the Central Co-operative Bank in the district, as the case may be;

(iii) a member co-opted under sub-section (4) of section 42 shall hold office for the full term of the Zila Parishad, and

(iv) any vacancy occurring in the office of a co-opted member shall be filled by co-option of another person in his place in the manner laid down in section 44:

Provided that the meeting for such co-option shall be convened and presided over by the Pramukh or in his absence by the Up-Pramukh.

47. *Disqualification.*—The provisions of sections 15, 16 and 17 shall apply *mutatis mutandis* to the members of the Zila Parishad other than the member specified in sub-section (5) of section 42.

1. Inserted and shall be deemed to have been inserted from 28-10-60 by section 26 of Rajasthan Act No. 11 of 1961, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-4-61-

48. *Resignation of Pramukh or certain members.*—The Pramukh, the Up-Pramukh or any member other than an ex-officio member of a Zila Parishad may resign his office as such Pramukh, Up-Pramukh or member, by giving notice, in writing under his hand, to the Zila Parishad. Such resignation shall take effect from the date on which the notice thereof is received by the Secretary of the Zila Parishad:

Provided that the resignation of the Pramukh shall take effect on and from the date on which the sanction of the State Government thereto is received in the office of the Zila Parishad.

49. *Motion of no-confidence in Pramukh or Up-Pramukh.* In relation to a proposed motion of no-confidence in the Pramukh or Up-Pramukh of a Zila Parishad, the provisions of section 39 shall *mutatis mutandis* apply, subject to the variation that for the expressions "Pradhan", "Up-Pradhan", "Panchayat Samiti", "Collector" and "Pramukh of the Zila Parishad having jurisdiction over the block", the expressions "Pramukh", "Up-Pramukh", "Zila Parishad", "Commissioner" and "State Government" shall respectively be substituted.

²[70A. *Procedure upon declaration of co-options as invalid:*—

Whenever any co-option of members under section 11 or under section 44 shall be declared by a competent authority to be invalid, then, notwithstanding anything contained in any provisions of this Act, such declaration shall be deemed to have caused a vacancy in the Panchayat Samiti or the Zila Parishad as the case may be, irrespective of whether the co-option shall

1. Inserted and shall be deemed always to have been inserted in section 30 of Rajasthan Act 11 of 1951, published in Rajasthan Gazette Extraordinary, Part IV-A, dated 5-4-51.
2. Inserted and shall be deemed always to have been inserted in section 31—ibid.

or a few only of the members thereof have been so declared as invalid, and such vacancy shall be filled up-

(a) in the case of a Panchayat Samiti, in accordance with section 18, and

(b) in the case of a Zila Parishad in accordance with clause (iv) of sub-section (2) of section 16.]

71. *Act of Panchayat Samitis and Zila Parishads not to be invalidated by informality, vacancy etc.*—(1) No act of a Panchayat Samiti or of a standing committee thereof shall be deemed to be invalid by reason only of a defect in the establishment of such Panchayat Samiti or standing committee or on the ground that the Pradhan, Up-Pradhan or any member of such Panchayat Samiti or the Chairman, Vice-Chairman or any member of such standing committee was not entitled to hold or to continue to hold any such office by reason of any disqualification or by reason of any irregularity or illegality in his nomination, co-option or election, as the case may be, or by reason of such act having been done during the period of any vacancy in the office of the Pradhan, Up-Pradhan or member of such Panchayat Samiti or the Chairman, Vice-Chairman or member of such standing committee.

(2) The provisions of sub-section (1) shall *mutatis mutandis* apply to the acts of a Zila Parishad or a sub-committee thereof.

71A *Disputes as to co-option, etc.*—(1) The provisions of section 18 shall *mutatis mutandis* apply to the co-option of members of Panchayat Samiti under section 11 or section 18, to the election or co-option of a member or Chairman of a standing committee of a Panchayat Samiti under

1. Re-numbered and shall be deemed always to have been re-numbered by section 2 of Rajasthan Act No. 27 of 1961, published in *Rajasthan Gazette Extraordinary*, Part IV-A, dated 21-10-61.

section 20 and to the co-option of members of a Zila Parishad under section 44 or clause (iv) of sub-section (2) of section 44].

¹[Provided that such co-option or election may be called in question by means of a petition also by any candidate therefor or thereat and every such petition pending before the Judge on the 31st day of August, 1961 shall be dealt with and disposed of accordingly.]

²[(2) If before the 31st day of August, 1961 any petition presented by any such candidate, as is referred to in the proviso to sub-section (1), shall have been dismissed on the ground that he did not happen to be a member of the Panchayat Samiti or the Zila Parishad, as the case may be, such dismissal shall be liable to be set aside on the application of the original petitioner for review presented to the Judge within a period of forty days from the said day.]

1. Added by Sec. 2 of Rajasthan Act No. 27 of 1957.

2. Inserted by *ibid.*

AMENDMENTS

AMENDING NOTE

This Volume contains the Provisions of the Rajasthan Panchayat Act, 1953 and the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 along with all Elections and Co-options Rules made there under. There have been some amendments since the printing of some Sections of the Volume which are included in the following pages. These are printed on one side of the pages only and can be easily cut out for facility of incorporation. It is suggested that minor and verbal amendments may be made by hand and big paragraphs may be cut out and pasted at the appropriate places in the book.

SECTION III

RAJASTHAN PANCHAYAT AND NYAYA PANCHAYAT ELECTION RULES, 1960

Table of contents.

(A) In page 1 of the table of contents of the Rajasthan Panchayat and Nyaya Panchayat Election Rules, 1960, make the amendments stated in the following pages:—

(i) For the title of Rule 11, the following title may be substituted :—

¹[Duration of List.]

(ii) After the title of Rule 11, the following title of Rule 11-A may be inserted :—

²[11-A. Annual Revision of Voters List]

(iii) After Rule 12-A, the following title of Rule 12-B may be inserted :—

²[12-B. Appeals.]

(iv) In place of the word “Notification”, in the title of Rule 14, the following words may be substituted:—

¹[Public Notice.]

(v) The following foot-notes may be added in page 1:—

1. Substituted by Notification No. F. 1 (1) (1) I/Elec/Dir/63. dated 30th Oct., '64, published in the Raj. Gaz., Part IV-C Extra. dated 7th Nov. '64.
2. Inserted by *ibid*.

(vi) In page 2, after the title of Rule 33, the following title of the newly added rule 33-A. may be inserted :—

¹[33-A. Tendered Votes.]

The following foot note may be added in this page.

1. Inserted by notification No. F. 1(1) (1) I/Elec/Dir/63, dated 30th Oct. '64, published in the Raj. Gaz., Part IV-C Extra. dated 7th Nov. '64.

(B) (i) *In page 1 of the table of contents of the “Rajasthan Panchayat Act, 1953,”* for the title of section 4, substitute the following title :—

¹[Constitution of Panchayat.]

(ii) After the title of Section 13, add the following title of the newly added section 13-A. :—

²[13-A. Electoral offences].

(iii) In this page, the following foot-notes may be added .—

1. Substituted by the Raj. Act No. 32 of 1964, published in the Raj. Gaz. Part IV-A, Extra. dated 3rd Dec. '64.
2. Inserted by ibid.

(C) In *page one of the table of contents of the provisions of the "Rajasthan Panchayat Samitis and Zila Parishads Act, 1959"* :—

(i) For the title of section 18, the following title may be substituted :—

¹[Casual vacancies how to be filled].

(ii) Add the following foot-note in this page :—

1. Substituted by the Raj. Act No. 32 of 1964, published in the Raj. Gaz. Part IV-A, dated 3rd Dec., '64.

PART I—THE RAJASTHAN PANCHAYAT & NYAYA PANCHAYAT ELECTION RULES, 1962.

1. *In page 3.*

of the Rajasthan Panchayat and Nyaya Panchayat Election Rules, 1960, the following new item may be added after item 13 :—

- | | |
|--|---|
| <p>14. Election Department Notification No. F. (1) (1) I/ Elec./Dir./63 dated 30th Oct. '64.</p> | <p>published in the Raj. Gaz. Part IV-C, Extra. dated 7th Nov. '64.</p> |
|--|---|

2. *In page 8.*

For Rule 6, the following new rule may be substituted and the following slips may be cut-out and pasted at page 8 :—

¹[6. Preparation of Voters Lists.—

(1) The list of voters for each ward shall be prepared in Hindi in Deonagri Script in accordance with the provisions of section 10.

(2) The names of the electors in each list shall be arranged in the order of the serial number of houses comprised in each ward.

(3) Whenever limits of Wards of Panchayat Circle are revised or when a Panchayat is constituted or re-constituted, such lists shall be prepared by adopting the electoral roll of State Assembly Constituency relatable to the area comprised in the wards and shall also contain names of all other persons entitled to be registered as electors under the Act after enquiry from house to house.]

The following foot-note may be added at page 8 :—

1. Substituted by Notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct. '64 published in the Raj. Gaz. Part IV-C, Extra. dated 7th Nov. '64.

3. *In page 10.*

(i) In sub-rule (1) of Rule 8, the following words may be inserted between the words "Collector" and "an application":—

¹[Personally or through messenger or by post :]

(ii) After the above sub-rule, the following sub-rules (2) to (5) may be added and for these the following slip may be cut out and pasted at page 10 after sub-rule (1), and the existing sub-rule (2) may be re-numbered as sub-rule (6) thereof:—



2[(2) Every claim shall be in Form VII and be signed by the person desiring his name to be included in the voters list.

(3) Every objection to the inclusion of name in the voters list shall be in Form VIII and preferred by person whose name is already included in the voters list of a ward.

(4) Every objection to a particular or particulars of entry in the voters list shall be in Form IX and shall only be preferred by the person to whom the entry relates.

(5) A claim or objection shall be accompanied by any document on which the claimant or objector relies.]

(iii) The following foot-notes may be added at page 10.

1. Inserted by Notification No. F. (1) (1) I/Elec/Dir/63, dated 30th Oct. 1964 published in the Raj. Gaz., Part IV-C, Extra-ordinary, dated 7th Nov., 1964.
2. Added by *ibid*.
3. Re-numbered by *ibid*.

4. *In page 13.*

(i) The first two lines which are part of Rule 12-A. may be struck out.

(ii) In Rule 14, for the word "Notification" occurring in the title and twice in sub-rule (1), the words "Public Notice" may be substituted as under :—

2[Public Notice.]

(iii) The following foot-note may be added in this page :—

2. Substituted by Notification No. F. (1) (1) I/Elec/Dir/63, dated 30th Oct. 1964 published in the Raj. Gaz., Part IV-C, Extra-ordinary, dated 7th Nov., 1964.

5. *In page 14.*

(i) In sub-rule 2 of Rule 14, the words "by the same or a separate notification" may be deleted and the following foot-note be added under this page :—

1. Deleted by Notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct. 1964 published in the Raj. Gaz., Part IV-C, Extra-ordinary, dated 7th Nov. 1964.

6. *In page 16.*

(i) Between the words "shall deliver" and "to the Returning Officer" in sub-rule (1) of Rule 16, the following words may be inserted :—

²[in person.]

(ii) The following foot note may be added in this page :—

2. Inserted by Notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct, 1964. published in the Raj. Gaz., Part IV-C, Extra-ordinary, dated 7th Nov., 1964.

7. *In page 26.*

(i) Between the words "and delivered" and "to the Returning Officer" in Rule 19 (1) the following words may be inserted :—

²[in person.]

(ii) The following foot-note may be added in this page :—

2. Inserted by notification No, F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct. 1964 pulished in the Raj. Gaz., Part IV-C, Extra-ordinary, dated 7th Nov., 1964.

8. *In page 27.*

(i) In clause (i) of sub-rule (3) of rule 20, the following words may be deleted :—

¹[or in case the number of candidates exceeds twelve, any other symbol not belonging to any political party.]

(ii) After clause (i) of sub-rule (3), the following proviso may be added :—

²[(Provided that in case the symbols specified in schedule I are found to be short of requirements, the Returning Officer may allot such other symbols not belonging to any political party by the Election Commission)]

(iii) For the existing sub-rule (4), the following sub-rule may be substituted :—

³[(4) (a) The ballot papers shall be in such form as the State Government may direct and the particulars therein shall be written in Hindi in Devnagri Script.

(b) The names of candidates shall be arranged on the ballot papers in the same order as they appear in the list in Form II.

(e) If two or more candidates bear the same name they shall be distinguished by the addition of their father's or husband's names, as the case may be, or in some other manner, as the Returning Officer may deem fit.]

(iv) The following foot-notes may be substituted in page for the existing foot-notes, which may be struck off —

1. Deleted by notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Nov. 1963, published in the Raj. Gaz. Extra-ordinary, Part IV C, dated 7th Dec. 1963.
2. Added by *ibid*.
3. Substituted by *ibid*.

9. In page 29.

(i) After sub-rule 2 of rule 21, the following rule may be added, namely :—

¹ [(3) A notice announcing the election shall be published at the office of the Returning Officer. If there is no office of Panchayat at the polling station at least 10 days before the election are held.]

(ii) In sub-rule 1 of rule 22—

(a) For the words "the words" the words "the words" may be substituted.



²[Collector or any other officer authorised by him]

(b) After the words "Polling Officer" appearing at the end, the following words may be added :—

¹[and Returning Officer.]

(c) The following provisos may be added under this sub-rule :—

¹[(a) Provided that if a Polling Officer or any other member of the staff is absent from polling station, or polling booth the Returning Officer may appoint any person to act in place of such absentee and inform the Collector accordingly.

(b) Provided further that no person who has been employed by or on behalf of or has been otherwise working for a candidate in or about the election, shall be appointed as Polling Officer or a member of the staff.]

(iii) In sub-rule 1 of Rule 24, for the words "supplied to", the following words shall be substituted :—

¹[used at]

(iv) The following foot-notes may be added in this page :—

1. Added by notification No, F. 1 (1)(1)/Elec/Dir/63, dated 30th Oct. 1964, published in the Raj. Gaz., Part IV-C, Extra, dated 7th Nov. 1964.

2. Substituted by *ibid*.

10. *In page 32:*

(i) For the existing rule 29, the following new rule may be substituted by cutting out the slip given below and pasting it at the appropriate place :—

²[29. (1) Every ballot paper shall before issue to the elector be authenticated in such manner as may be directed by the Government.

(2) At the time of issuing a ballot paper to an elector, the Polling Officer shall record the serial number thereof against the entry relating to the elector in the copy of voters list (marked copy) set apart for the purpose.

(3) Save as provided in sub-rule (2), no person in the polling station shall note down the serial number of ballot papers issued to particular electors.]

(ii) The following foot-note may be substituted as foot-note No. 2 for the existing foot-note No. 2, which may be struck-off :—

2. Substituted by Notification No. F. 1 (1) (1) I/Elec/Dir/63 dated 30th Oct., 1964, published in the Raj. Gaz., Part IV-C, Extra., dated 7th Nov., 1964.

11. *In page 33.*

(i) For the existing rule 31, the following rule shall be substituted :—

²[31. Assistance to illiterate and infirm electors.—If an elector, owing to illiteracy or physical infirmity, is unable to record his vote in the manner laid down in rule 30, the Polling Officer shall do so according to the direction of the elector and fold it so as to conceal the vote and insert it into ballot box and make a brief note against the entry relating to such elector in the copy of voters list referred to in rule 29, the reason for such action.]

(ii) The following foot-note may be added after the existing foot-note 1 :—

2. Substituted by notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct., 1964, published in the Raj. Gaz., Part IV-C, Extra., dated 7th Nov., 1964.

12. In Page 34.

(i) The last four lines of rule 31 shall be struck off and the words "together with its counterfoil" occurring in the last but one line of Rule 32, shall be deleted and the deleted words may be shown in square brackets as under :—

¹[x x x x]

(ii) After the existing rule 33, the following new rule shall be added :—

²[33 A. *Tendered Votes*.—(1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the Returning Officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper (hereinafter in these rules referred to as a "tendered ballot paper") in the same manner as any other elector.

(2) Every such person shall be entitled to make only one entry relating to himself on a tendered ballot paper.

(3) A tendered ballot paper shall be marked in the same manner as other ballot papers and it shall be—

(a) serially the last in the series of ballot papers issued to the elector.

(iii) The following foot-notes may be added in this page :—

1. Deleted by notification No. F. (I) (1) 1/Elec/Dir/63, dated 30th Oct., 1964, published in the Raj. Gaz. Part IV-C, Extra. dated 7th Nov., 1964.
2. Added by *ibid*.

13. *In page 35.*

(i) In rule 36, sub-clause (c) of clause (iii) of sub-rule (1) may be deleted and the deleted clause may be shown in square brackets as under :—

¹[xx xx xx]

(ii) The following foot-note may be added in this page :—

1. Deleted by notification No. F. 1 (1) (1) Elec/Dir/63, dated 30th Oct., 1964, published in the Raj. Gaz., Part IV-C, Extra. dated 7th Nov., 1964.

14. *Page 37.*

(i) After the existing sub-rule (7) of rule 38, the following new sub-rules may be added :—

¹[(8) Every ballot paper which is not rejected under rule 39 shall be deemed to be valid and shall be counted as one valid vote.

(9) The Returning Officer shall count all valid votes given to each candidate and make candidate-wise packets of counted valid ballot papers and those of rejected ballot papers and then all such packets shall be sealed properly.]

(ii) For clause (v) of sub-rule 1 of rule 39, the following clauses shall be substituted :—

²[(v) If it is a spurious ballot paper, or

(vi) If it is so damaged or mutilated that its indentivity as a genuine ballot paper cannot be established.]



(iii) The following foot notes may be added in this page :—

1. Added by amendment No. F. 1 (1) (1) 1111 No. Dir/52, dated 29th Oct., 1964, published in the Raj. Gaz. Part IV-C, Extraordinary dated 17th Nov., 1964.
2. Substituted by do.

15. *In page 40.*

(i) After clause (iv) of sub-rule (2) of Rule 41, the following new clause may be added :

“(V) One such copy to Director of Elections, Rajasthan Jaipur.]

(ii) The following foot-note may be added in this page :—

1. Added by amendment No. F. 1 (1) (1) 1111 No. Dir/52, dated 29th Oct., 64, published in the Raj. Gaz., Part IV-C, Extraordinary dated 17th Nov., 64.

16. *In page 41.*

(i) In sub rule (2) of rule 42 for the words “The packets of ballot papers, whether counted or not, and of the counter-foils thereof,” the following words may be substituted :—

“[The packets of used ballot papers, whether valid, tendered or rejected and the marked copies of the voters lists.]

(ii) For the words “revenue records” occurring at the end of sub-rule (3) of rule 42, the following words may be substituted :—

“[Similar records under the provisions of Conduct of the Election Rules, 1961 under Representation of the People Act, 1951.]

(iii) For the words “the Officer-in-charge of the Panchayats” occurring in sub-rule (4) of Rule 42, the following words may be substituted :—

²[State Government.]

(iv) The following foot-note may be added on this page after the existing foot note 1 :—

2. Substituted by notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct. '64, published in the Raj. Gaz. Part IV-C Extra-Ordinary, dated 7th Nov. '64.

17. *In page 44.*

(i) In clause (b) of sub-rule (3) of rule 48, for the words "name of the seat of the Sarpanch", the following word may be substituted :—

²[Sarpanch.]

(ii) After clause (b), the following new clause may be added :—

³[(c) In case a separate ballot box is provided or used for the election of Sarpanch, then the ballot box shall bear the name of the Panchayat and the word "Sarpanch".]

(iii) The following foot-notes may be added at this page after the existing foot-note No. 1 :—

2. Substituted vide Notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct. '64, published in the Raj. Gaz. Part IV-C, Extra-ordinary, dated 7th Nov. '64.

3. Added by *ibid*.

18. *In page 45.*

(i) In sub-rule (2) of Rule 48 for the words and ~~forms~~ "rules 46 to 48", the following may be substituted :—

¹[rule 48.]

(ii) The following foot-note may be added ~~at the bottom of the page~~

1. Substituted by notification No. F. 1 (1) (1) I/Elec/Dir/63, dated 30th Oct. '64, published in the Raj. Gaz. Part IV-C, Extra-ordinary, dated 7th Nov. '64.

(iii) In sub-section (4) the words "shall be additional panchas of the Panchayat and" may be deleted and be placed in square brackets preceded by foot-note mark 2 as under :—

²[* * * *]

(iv) The following foot notes may be added under this page :—

1. Substituted by Section 4 of the Raj. Act No. 32 of 1964 published in the Raj. Gaz., Part IV-A, Extra., dated 3rd Dec. '64.
2. Omitted by *ibid*.

In page 19.

(i) In Section 19 (1) for the words "any Panch", the following words may be substituted :—

²[any elected or co-opted panch]

(ii) In sub-section (2) of section 19, for the words "Panchas" occurring in the second and the fourth line, the following may be substituted :—

²[members of the Panchayat including the Sarpanch but excluding the associate Panchas.]

(ii) The following foot-note may be added under this page :—

2. Substituted by section 9 of the Raj. Act No. 32 of 1964 published in the Raj. Gaz., Part IV-A, Extra., dated 3rd Dec. '64.

5. *In page 20.*

(i) The full stop at the end of sub-section (4) of section 19 may be deleted and the punctuation mark, and words may be added as under :—

⁴[,including a right to vote.]

(ii) The following foot-note may be added at this page :—

4. Inserted by section 2 (c) of the Raj. Act No. 32 of 1964 published in the Raj. Gaz., Part IV-A, Extra., dated 3rd Dec. '64.

6. *In page 21.* (Raj. Panchayat Act, 53)

(i) In sub-section (2) of section 27-C, after the words "each Panchayat" and before the words "shall elect", the following words within small brackets may be inserted as under :—

¹[(excluding associate panchas)]

(ii) The following foot-note may be added in this page :—

1. Inserted by section 10 of the Raj. Act No. 32 of '64 published in the Raj. Gaz., Part IV-A, Extra., dated 3rd Dec. '64.

THE RAJASTHAN PANCHAYAT SAMITIS AND ZILA PARISHADS ACT, 1959

1. *In page 3.*

(i) Sub-section (1) of Section 8 may be amended as under :—

(a) Before clause (i), the following sub-heading may be inserted :—

⁴[Ex-Officio Members.]

(b) Clause (ia) may be deleted and the deleted words may be put in square brackets as under :—

⁵[xx xx xx]

(c) For foot-note No. 4, the following foot-notes may be substituted as under :—

4. Inserted by section 12 of the Raj. Act No 32 of '64, published in the Raj. Gaz., Extra., Part IV-A, dated 3rd Dec. '64.
5. Omitted by *ibid*.

2. *In page 11.*

In sub-section (1) of Section 11—

(i) For the words "clauses (i) and (ia)", the following may be substituted :—

¹[Clauses (i) and (ii).]

(ii) In Sub-section (2) of Section 11, the words "or a Sub-Divisional Officer" may be deleted and the deleted words may be put in square brackets as under :—

³[xx xx xx.]

(iii) The following foot-notes may be substituted in place of the existing foot-notes :—

1. Substituted by section 14 of the Raj. Act No. 32 of '64 published in the Raj. Gaz. Extra., Part IV-A, dated 3rd Dec., '64.
2. Substituted by section 7 (1) of the Raj. Act No. 11 of 1961.
3. Omitted by Sec. 14 of the Raj. Act. No. 32 of '64.

3. *In page 12.*

(i) In Sub-section (3) of Section 11, the words "or a Sub-Divisional Officer" may be deleted and the deleted words may put in square brackets as under :—

⁴[xx xx xx.]

(ii) In Sub-section (4), for the words "Clauses (i) and (ia).", the following words may be substituted :—

³[clauses (i) and (ii).]

(iii) In sub-section (5), the words "or a Sub-Divisional Officer" may be deleted and may be put in square brackets as under :—

⁴[xx xx xx.]

(iv) In the same sub-section for the words "Clauses (i) and (ia)", the following words may be substituted :—

³[clauses (i) and (ii).]

(v) The following foot-note may be substituted for the existing foot-note No. 3 and thereafter, foot-note No. 4 may be added as under :—

3. Substituted by Section 14 of the Raj. Act No. 32 of '64, published in the Raj. Gaz. Extra., Part IV-A, dated 3rd Dec., '64.
4. Omitted by *ibid*.

4. *In page 17.*

(i) After sub-section (1) of section 14, the following sub-section may be added as sub-section (1A) and placed within square brackets as under :—

⁴[(1A) Notwithstanding anything contained in sub-section (1), the term of the Panchayat Samitis as existing on the date of the commencement of the Rajasthan Panchayat Laws (Amendment) Act, 1964, shall be extended upto the 31st day of March, 1965, or such earlier date as may be notified by the State Government in this behalf.]

(ii) The following foot-note No. 4 may be added after the existing foot-note No. 3 in this page :—

4. Added by Section 16 of the Raj. Act No. 32 of '64, published in the Raj. Gaz., Extra., Part IV-A, dated 3rd Dec., '64.

5. *In page 18.*

(i) In sub-section (2) of Section 14 clause (aa) and the proviso thereto shall be deleted and placed in square brackets as under :—

³[xx xx xx.]

(b) Clause (c) and proviso thereto shall be deleted and placed in square brackets as under :—

³[xx xx xx.]

(ii) In this page for the foot-note 3, the following foot-note may be substituted as under :—

3. Omitted by section 16 of the Raj. Act No. 32 of 1964, published in the Raj. Gaz. Part IV-A Extra dated 3rd Dec, 1964.

(iii) The foot-notes 5 and 6 may be deleted.

PART II—THE RAJASTHAN PANCHAYAT ACT, 1953 (ACT No. 21 OF 53).

The following amendments have been made in the Rajasthan Panchayat Act, 1953 (Act No. 21 of 1953) by the Rajasthan Panchayat Laws (Amendment) Act, 1964 (Act No. 32 of 1964). These may be carried out in your volume.

1. *In page 7.*

In Sub-section (1) Section 9, insert the following words between the words "prescribed manner by" and "the Panchas :—

³[the Sarpanch and]

(ii) The following foot note No. 3 may be added on this page after the foot note No. 2 :—

3. Inserted by Section 4 (a) of the Raj. Act No. 32 of 1964 published in the Raj. Gaz Part IV-A Extra. dated 3rd Dec. '64.

2. *In page 8.*

(i) For sub-section (2) of section 9 and the proviso thereof, the following sub-section may be substituted :—

¹[(2) When members of a panchayat are to be co-opted under sub-section (1), there shall be held on such day before the first meeting of the panchayat as the Collector or any officer appointed by him in this behalf may fix, a meeting of the Sarpanch and elected panchas for choosing co-opted members.]

(ii) In sub-section (3) of section 9, for the words "the first meeting of the Panchayat convened for such co-option", the following words may be substituted :—

¹[such meeting for co-option.]

6. *In page 19.*

(i) The first four lines in this page, which are a part of the proviso to clause (c) of sub-section (2) of Section 14 which has been deleted shall be struck off.

(ii) In clause (d) :—

(a) The words “or clause (vii)” shall be omitted and placed in square brackets as under :—

²[xx xx xx.]

(b) The full-stop at the end of this clause may be changed into semi-colon as under :—

³[;]

(iii) After sub-clause (d), the following sub-clauses may be added :—

⁴[(e) an ex-officio member specified in clause (ii) of sub-section (1) of section 8 shall hold office so long as he continues to be a member of the Legislative Assembly of the State; and

(f) an associate member specified in section 10 shall hold office for the full term of the Panchayat Samiti or so long as he continues to be a chairman of the service or other cooperative society or marketing cooperative society, as the case may be.]

(iv) The following foot-notes may be added in this page :—

2. Omitted by section 16 of the Rajasthan Act No. 32 of 1964, published by the Raj. Gaz. Part IVA Extra dated 3rd Dec. '64.

3. Substituted by *ibid*.

4. Added by *ibid*.

7. *In page 25.*

For section 18, the following section

²[18. *Casual vacancies how to be filled.*—In the event of the office of any member of a Panchayat Samiti becoming vacant by death, removal, resignation or otherwise under this Act, which shall be forthwith reported to the prescribed authority, an election or co-option, as the case may be, to fill the vacancy shall be held in such manner as may be prescribed. The foregoing provisions of this Act shall apply to such election or co-option and the member so elected or co-opted shall hold office for the remainder of the term during which the outgoing member would have been entitled to hold office if the vacancy had not occurred :

Provided that such vacancy shall not be filled up if the said term expires within six months from the date of occurrence of such vacancy.]

(ii) The following foot-note no. 2 may be substituted for the existing foot-note no. 2 :—

2. Substituted by section 17 of the Raj. Act No. 32 of '64, published in the Raj. Gaz. Extra., Part IV A. dated 3rd Dec., '64.

8. *In page 26.*

The proviso and sub-section (2) of the deleted Section 18 shall be struck off.

9. *In page 28.*

(i) In sub-section (2) of section 39, the following words may be inserted between the words "Panchayat Samiti" and and "together" :—

¹[other than those specified in clauses (iii) and (v) of sub-section (1) of section 8.]

(ii) The following foot-note may be added in this page :—

1. Inserted by section 19 of Raj. Act No. 32 of '64 published the Raj. Gaz. Part IV-A Extra. dated 3rd Dec., 64.

10. *In page 30.*

(i) In sub-section (12) of section 39, for the expression beginning with "and such subsequent motion" and ending with "sub-section (11) shall apply", occurring in the last five lines of this sub-section, the following shall be substituted namely :—

¹[and such subsequent motion,—

(a) in the case of an Up-Pradhan, if supported by a majority of the total number of the members of the Panchayat Samiti, shall be deemed to be carried and the other provisions of sub-section (11) shall apply; and

(b) in the case of a Pradhan, if supported by a majority of the members of the electoral college consisting of the persons referred to in clause (a) of sub-section (1) of section 12, present and voting shall be deemed to be carried and provisions of sub-section (2) shall apply as if for the words “not less than one third”, the words “more than one-half” were substituted therein, and other provisions of sub-sections (3) to (11) shall apply as if a reference therein to “Panchayat Samiti” were a reference to such electoral college and a reference to “meeting” or “member” were a reference respectively to the meeting or member of such electoral college.]

(ii) After sub-section (13), the following sub-section may be added :—

³[(14) The quorum to constitute a meeting for the consideration of a no-confidence motion against the Pradhan or Up-Pradhan shall be one-third of the total number of persons entitled to vote thereat.]

(iii) The following foot-notes may be added in this page :—

2. Substituted by section 19 of the Rajasthan Act No. 32 of 1964, published in the Raj. Gaz. Extra. part IV-A dated 3rd Dec. '64.

3. Added by *ibid*.

11. *In page 34.*

(i) In sub-section (3) before clause (i), the following sub-heading shall be inserted :

¹[Ex-Officio Members.]

(ii) The following foot-note may be added in this page :—

1. Inserted by section 20 of the Rajasthan Act No. 32 of 1964, published in the Raj. Gaz. Extra. part IV-A dated 3rd Dec. '64.

12. *In page 40.*

- (i) After sub-section (1) of section 46 the following new sub-section shall be added :—

²[(1-A) Notwithstanding anything contained in sub-section (1), the term of the Zila Parishads as existing on the date of the commencement of the Rajasthan Panchayat Laws (Amendment) Act. 1964, shall be extended upto the 31st day of March, 1965 or such earlier date as may be notified by the State Government in this behalf.]

- (ii) In clause (ii) of sub-section (2) for the expression “and (v)”, the following expression shall be substituted :—

³[(v) and (vi).]

- (iii) After the words “the Central Co-operative Bank”, (ii) the following words shall be added in this clause :—

⁴[or the chairman, district co operative union]

- (iv) The following foot-notes may be added in this page :—

2. Added by section 23 of the Raj. Act No. 32 of '64, published the Raj. Gaz. Part IV-A Ext. dated 3rd Dec., 64.

3. Substituted by *ibid*.

4. Inserted by *ibid*.

13. *In page 41.*

- (i) In section 48, after the words “other than an ex-officio member of the Zila Parishad”, the following expression shall be inserted :—

³[specified in clause (iv-a) of sub-section (3) of section 42]

- (ii) The following foot-note may be added in this page :—

3. Inserted by Section 24 of the Raj. Act. No 32 of '64, published in the Raj. Gaz. Part IV-A Extra. dated 3rd Dec. '64.

AMENDMENT

IN

RAJASTHAN PANCHAYAT & NYAYA PANCHAYAT ELECTION RULES, 1960

No. F. (1) V/Election 65.—In exercise of the powers conferred by section 89 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953) and of all other powers enabling it in this behalf, the State Government hereby makes the following amendments to the Rajasthan Panchayat and Nyaya Panchayat Election Rules, 1960 namely.

In the after rules,—

1. for the existing rule 50, the following rule shall be substituted, namely:—

“50. *Appointment of dates for co-option and notice thereof.*—(1) Where the Collector or any officer appointed by him in this behalf, finds on perusing the results of election to a panchayat that co-option of panch or panchas under sub-section (1) of section 9 is necessary, he shall—

(a) fix the date and the hours on which and the place at which the special meeting referred to in sub-section (2) of section 9 will be held,

(b) fix the date and hours by which nominations for co-options shall be made,

(c) give to newly elected Sarpanch and panchas a notice in Form V specifying the date, time and hours referred to in sub-clauses (a) and (b) and number of persons to be co-opted in each category referred to in sub-section 1 of section 9.

(2) The notice shall be sent to such Sarpanch and Panchas by such mode and in such manner as the officer issuing notice considers expedient.

THE RAJASTHAN PANCHAYAT & NYAYA PANCHAYAT ELECTION RULES 1960.

*Explanation:—*If any panch or sarpanch cannot be served with a notice personally and is not found at the address given in the return of election under the rule 41, it shall be pasted at some conspicuous place of his house and such substituted service shall be deemed to be sufficient service for the purposes of this rule.

(3) A copy of such notice shall also be exhibited on the notice board of the panchayat office and at any other conspicuous place at the headquarter of the panchayat where no panchayat Office is established.

(4) All papers relating to fixing of date and hours and receipt of notices shall be forwarded to Collector.

2. for the existing rule 51, the following rule shall be substituted, namely:—

“51. *Meeting of Co-option.*—The special meeting for co-option shall be held at the place and on the date and time fixed in the notice issued under rule 50 and shall be presided over by an officer nominated by the Collector.”

3. for the existing rule 52, the following rule shall be substituted, namely:—

“52. *Nomination for co-option.*—(1) On or before the date and before the expiry of the hours fixed for making nomination in the notice issued under rule 50, any person belonging to category from which co-option is being held and qualified for being elected as panch under section 11, may deliver in person to the presiding officer a nomination paper in Form VI, duly completed and signed by him and one person as proposer from amongst the newly elected sarpanch and panchas.

(2) The presiding Officer shall mark on each nomination paper the date and time of delivery thereof.

(3) No notice of nomination shall be received after the hours mentioned in the



THE RAJ. PANCHAYAT AND NYAYA PANCHAYAT ELECTION RULES, 1960

4. for the existing rule 53, the following rule shall be substituted namely:—

“53. *Procedure for co-option.*—(1) After expiry of the hours fixed for making nomination, the presiding officer shall be examine the nomination papers and afford a reasonable opportunity to sarpanch and panchas present to examine the same and raise objections, if any thereto and shall decide all such objections and may, either on such objections or on his own motion, reject any nomination on any of the following grounds, namely:—

(a) that the person filing the nomination is not eligible for co-option as panch under the provisions of the Act, or

(b) that there has been a failure in complying with provisions of rule 5

(2) If any nomination paper is rejected, the presiding officer shall record in writing the reasons for such rejection.

(3) The names of all persons found in order, shall be read out.

(4) If the number of persons found in order is equal to the number of seats, the presiding officer shall declare them to be duly co-opted.

(5) If such a meeting is not held, the panchas to be elected shall be declared all such meeting to fill a vacancy within one month of section 9, of the Act, 51, 52 and this rule.



(6) If the number of such nominations exceeds the number of panchas to be co-opted, the votes of sarpanch and panchas present at the meeting shall be taken by show of hands in respect of each category of persons, referred to in sub-section (1) of section 9, and the person securing the largest number of votes shall be declared to have been co-opted:

Provided that in case of equality of votes, the results shall be declared by drawing of lots in such manner as the presiding officer may think proper."

5. in sub-rule (3) of rule 54 between the words "a month of the" and "special meeting" the word "first" shall be inserted.

6. in rule 55 for the word "Sarpanch" the word "Collector" shall be substituted.

7. rule 55A, shall be deleted.

8. for the existing rule 56, the following rule shall be substituted namely:—

"56. *Election of Up-sarpanch.*—(1) Election of Upsarpanch shall be held on the day on which co-option of requisite number of panchas under the foregoing rules has been completed:

Provided that the Collector, for reasons to be recorded in writing, may direct, that Election of Upsarpanch be held on some later day and in that case, meeting shall be convened in accordance with procedure laid down in rule 57A.

THE RAJASTHAN PANCHAYAT AND NYAYA PANCHAYAT ELECTION RULES, 1960

(2) The officer nominated by the Collector under rule 51, shall immediately after completion of co-option convene a meeting of the newly elected and co-opted panchas and Sarpanch for the election of the Upsarpanch, and the notice specifying the time and place of the meeting shall be affixed not less than 2 hours before the poll on the notice board of the office of Panchayat, and where no such office is established or where election is to be held at a place other than the Headquarter of the Panchayat, at some conspicuous part of the place specified in the notice, and shall also inform the Sarpanch and the Panchas present of such time and place of the meeting for such election.

9. for the existing rule 57, the following rule shall be substituted, namely:—

“57. *Procedure for election.*—(1) At the meeting each panch or the sarpanch present thereat may propose in writing the name of any panch (hereinafter referred to as candidate) for election as Upsarpanch.

Provided that all such proposals shall be made within an hour of the commencement of the meeting and no proposal shall be entertained or received thereafter.

(2) If such panch is not present at the meeting his acceptance in writing of the proposals shall be submitted alongwith the proposal:

Provided that in case the panch proposed for such election is present at such meeting, his written acceptance shall not be necessary if he signifies such acceptance orally.

(3) The presiding officer shall read out the names of the candidates and examine the proposals one by one and afford a reasonable opportunity to the sarpanch and panchas present to examine the same and raise objections thereto and shall then decide all such objections and may, either on such objection or on his own motion reject any proposal on any of the following grounds:—

(a) that the candidate is not eligible for election as Upsarpanch under the provisions of the Act; or

(b) that there has been a failure in complying with the provisions of this rule.

(4) If any proposal is rejected the presiding officer shall record in writing a brief statement of the reason for such rejection.

(5) The names of all the candidates whose nominations are found to be in order shall be read out by the presiding officer.

(6) If there is only one candidate, he shall be declared to be duly elected as Up-sarpanch.

(7) If the number of candidates exceeds one, votes shall be taken by show of hands and the candidate securing the largest number of votes shall be declared to have been duly elected:

Provided that in case of equality of votes, the result shall be declared by drawing of lots in the manner which the presiding officer may think proper.

(8) If there is no candidate and the panchayat fails to elect an Up-sarpanch, the presiding officer shall follow the procedure laid down in sub-rule (5) of rule 48.

10. after rule 57, the following new rule shall be added, namely:—

“57 A. *Bye-Election of Upsarpanch*.—As and when a bye-election of Up-sarpanch becomes necessary under section 20 of the Act, Collector or an officer nominated by him in this behalf shall convene a meeting of sarpanch and pauchas after serving on them notices specifying date, time and place of such meeting and the provisions of sub-rules (1), (2), (3) and (4) of rule 50 and rule 57 shall apply so far as may be.

11. in sub-rule (2) of rule 58, for the words and figures “rules 51 to 53” the words and figures “rules 50, 52 and 53” shall be substituted.



THE RAJASTHAN PANCHAYAT AND NYAYA PANCHAYAT ELECTION RULES, 1960

2. The nomination papers may be delivered to the presiding officer of such meeting not later than.....(time) of..... date).

3. Further proceedings for co-option including the taking of votes by show of hands in the event of the number of candidates being in excess of the number of persons required for each category, shall be held after the expiry of the time fixed for presentation of nomination papers.

4. You are requested kindly to attend the said meeting on the aforesaid date, time and place.

Place.....

Date.....

Signature of Officer appointed by Collector
Panchayat....."

17. from VI appended to the rules shall be substituted by the following, namely:—

"FORM VI

(See Rule 52)

Co-option to.....Panchayat.....Panchayat
Samiti.....District.

(To be filled by the proposer)

I hereby nominate Shri/Shrimati.....
as a candidate for co-option as panch of female sex/Scheduled
Caste/Scheduled Tribes* to the above Panchayat:—

- (1) Name of candidate's farther/husband.
- (2) Sex of the candidate.
- (3) Cast of the candidate.
(For Scheduled Castes or Tribes only)
- (4) Number of the candidate in the list of voters.

Signature of the proposer

THE RAJASTHAN PANCHAYAT AND NYAYA PANCHAYAT ELECTION RULES, 1960

(To be filled by the candidate)

I, the above named candidate, assent to the nomination and hereby declare that:—

(i) I am qualified to be a Panch of category specified above under the provisions of the Rajasthan Panchayat Act, 1953 and

(ii) I am not subject to any of the disqualifications specified in Section 11 of the said Act.

Date.....

Place.....

Signature of the candidate,

(To be filled by the officer appointed by the Collector)
S. No. of the nomination paper.

This nomination was presented to me ~~on~~ (for)
.....(on).....
.....

Decision accepting or reject

I have examined the nomination provisions of these rules and decide:

Date,.....

Signature

Strike the words not applicable

Note:—This Form may be filled by members of the Nyaya Panchayat man thereof when necessary."

AMENDMENTS

IN

THE RAJASTHAN PANCHAYAT SAMITIS & ZILA PARISHAD (ELECTION OF PRADHAN, UP-PRADHAN, PRAMUKH UP-PRAMUKH) RULES, 1959.

[Notification No. F 1 (1) (4) 11/Elec./65 dated 30th Dec.
1964, published in Raj. Gaz. Extra part IV-C
dated Dec. 30, 1964]

In the above rules,—

1. in the title of the rules, the word “Pradhan” and
“Pramukh” wherever occurring shall be deleted.

2. in rule 1,

(i) sub-clauses (a) and (c) of clause (iii) shall be
deleted and the remaining clauses shall be renumbered
as (a) and (b).

(ii) after clause (iii) of rule 1, the following
clause shall be added and the existing clause (iv)
shall be renumbered as clause (v), namely,—

“(iv) “Members” means, in case of election of
Up-pradhan, the members of the Panchayat
Samiti entitled to vote in the election of Up-
pradhan and in case of election of Up-pramukh,
the members of Zila Parishad entitled to vote in
the election of Up-pramukh.”

3. the existing rule 2 shall be substituted by the following
following namely,—

“2. Meeting for election of Up-Pradhan shall not be
election of Up-pradhan of a Panchayat Samiti is not
be held in the office of Pradhan shall be
meeting to be convened : Pradhan shall be
Pradhan.”

2. in rule 3,—

(i) for the existing sub-rule (1), the following sub-rule shall be substituted, namely. —

“(1) As soon as a notification constituting a Zila Parishad under section 42 of the Act has been issued and on every occasion when the Zila Parishad is to be re-constituted, the Collector shall first determine the number of persons to be co-opted under each of the clauses of sub-section (4) of section 42.”

(ii) after sub-rule (1), the following new sub-rule shall be added, namely:—

“(1A) as soon as the number of each class of persons to be co-opted is determined under sub-rule (1), the Collector shall on a date previously to the date appointed for constitution of Zila Parishad, convene at the office of the Zila Parishad at the appointed time, a special meeting of the members after giving them a notice in writing of not less than 7 clear days for the co-option of the members so determined, (iii) in sub-rule (1), for the existing clause (i) the following clause shall be substituted, namely:—

“(i) the number of each class of person to be co-opted from amongst the persons mentioned in sub-section (4) of section 42.

(iv) to sub-rule (3), the following explanation shall be added, namely:—

“*Explanation.*—If any member can not be served with a notice personally and is not found at his usual place of residence it shall be pasted at some conspicuous place of his house and such substituted notice shall be sufficient for”

1

1

THE R. P. S. & Z. P. ELEC. OF (P. UP-P. PRAM. UP-PRAM) RULES, 1959

4. in sub-rule (1) of rule 3, for the word "Collector" the word "Pradhan" shall be substituted.

5. in clause (a) of sub-rule (2) of rule 5 for the word "Pradhan" the word "Up-Pradhan" shall be substituted.

6. in rule 7,

(i) in sub-rule (1), between the words "any time before" and "the commencement" the words "the hour fixed for" shall be added.

(ii) in sub-rule (2), between the words "by" and "a" the words "Pradhan or" shall be inserted.

7. in clause (b) of rule 11, the word "Pradhan" shall be substituted by the word "Up-pradhan".

8. in sub-rule (1) of rule 12, after the words "and the date therefor" the following words shall be added namely,—

"and send them to the collector of the district".

9. part III and IV bearing rules 13 and 14 shall be deleted and existing part V shall be re-numbered as part III and the remaining rules shall be re-numbered as rules 13 and 14 respectively.

10. in sub-rule (2) of rule 13 so re-numbered, for the word "Pradhan" the word "Up-pradhan" shall be substituted.

11. in rule 14 so re-numbered, the words "Pradhan" and "Pramukh" shall be deleted.

12. for the existing Schedule I, the following Schedule shall be substituted, namely:—

SCHEDULE I.

*(See sub-rule (1) of rule 4)*NOMINATION FORM FOR ELECTION AS UP-PRADHAN
OF PANCHAYAT SAMITI/UP-PRAMUKH OF ZILA
PARISHAD.

1. Name of the Panchayat Samiti/Zila Parishad.
2. Full name of the candidate.
3. Father's or Husband's name.
4. Age.
5. Sex.
6. Address.
7. Full name and Address of the proposer.
8. Full name and Address of the seconder.

1. Signature of the Proposer.
2. Signature of the Seconder.

Date.....
Place.....

Date.....
Place.....

CANDIDATES DECLARATION

I, the above named candidate, give my consent to this nomination.

Date
Place

Signature of the candidate.

ENDORSMENT OF THE RETURNING OFFICER

Serial Number_____

This nomination paper was presented to me by.....
.....(name) at.....(hour) on.....
.....(name) at.....(hour).....on
.....(Date).....

Date
Place

Signature of the Returning Officer.

IN

THE RAJASTHAN ZILA PARISHADS (CO-OPTION OF MEMBERS) RULES, 1959

Elec. Deptt. Notification No. P. 1 (1) (5) V/Elec./65.
dated 21st Dec., 1964, Pub. in Raj. Gaz. Extra. part IV-C dated
22nd Dec. 1964.

In the said rules:—

1. in rule 2, in clause (ii), between the words "specified in" and "sub-section (3)", the words, figures and brackets "clauses (i), (ii), (iii) and (iv) of" shall be inserted.

2. in rule 3,—

(i) for the existing sub-rule (1), the following sub-rule shall be substituted, namely:—

"(1) As soon as a notification constituting a Zila Parishad under section 42 of the Act has been issued and on every occasion when the Zila Parishad is to be re-constituted, the Collector shall first determine the number of persons to be co-opted under each of the clauses of sub-section (4) of section 42."

(ii) after sub-rule (1), the following new sub-rule shall be added, namely:—

"(1A) as soon as the number of each class of persons to be co-opted is determined under sub-rule (1), the Collector shall on a date previously to the date appointed for constitution of Zila Parishad, convene at the office of the Zila Parishad at the appointed time, a special meeting of the members after giving them a notice in writing of not less than 7 clear days for the co-option of the members so determined.

(iii) in sub-rule (2), for the existing clause (i) the following clause shall be substituted, namely:—

(i) the number of each class of persons to be co-opted from amongst the persons mentioned in sub-section (4) of section 42.

(iv) to sub-rule (3), the following explanation shall be added, namely:—

"*Explanation.*—If any member can not be served with a notice personally and is not found at his usual place of residence, it shall be pasted at some conspicuous place of his house and such substituted service shall be deemed to be sufficient for the purposes of this rule."



ORDER OF THE RETURNING OFFICER

Accepted/Rejected.....
 Reasons for rejection.....

Date
 Place

Signature of the Returning Officer.

Received nomination paper of Shri/Shrimati.....
 for election as Up-Pradhan/Up/pramukh of Panchyat Samiti/
 Zlia Parishad, proposed and seconded by (1).....and
 (2).....respectively which was presented to me at
 this.....day of.....19 , by Shri.....

Signature of the Returing Officer.

13. in Schedule II, the words "Pradhan" and "Pra-
 mukh" wherever occurring shall be deleted.

14. in Schedule III, the words "Pradhan" and "Pra-
 mukh" wherever occurring shall be deleted.

15. in Schedule IV, the words "Pradhan" and "Pra-
 mukh" wherever occurring thall be deleted.

THE RAJASTHAN ZILA PARISHADS (CO-OPTION OF MEMBERS) RULES, 1959

3. for the existing rule 4, the following shall be substituted, namely:—

“4. *Returning Officer to preside over meeting for co-option.*—The meeting for co-option of members shall be presided over by the Returning Officer.”

4. in rule 5, in sub-rule (4), for the words “or his proposer or seconder” the words “in person shall be substituted.

5. in rule 6,—

(i) in clause (b) of sub-rule (2), for the figure “15” the figure “47” shall be substituted.

(ii) after clause (c) of sub-rule (2), the following new clause shall be added, namely:—

“(d) that there has been a failure to comply with the provisions of rule 5.”

(iii) Second proviso to sub-rule (2), shall be deleted.

6. in rule 8, between the words “any time before” and “the commencement of poll” the words “the hour fixed for” shall be inserted

7. in rule 9, in sub-rule (2) for the words “the date appointed under sub-section (1) of section 44” the words “such meeting” shall be substituted.

8. in rule 10,—

(i) in sub-rule (1) for the words “the date appointed under sub-section (1) of section 44” the words “such meeting” shall be substituted.

(ii) in sub-rule (3), the words “appointed” in sub-section (3) of section 44” shall be omitted.

THE RAJASTHAN ZILA PARISHADS (CO-OPTION OF MEMBERS) RULES, 1959

9. in rule 11,—

(i) after sub-rule (1), the following new sub-rules shall be added, namely:—

“(1A) The Collector shall cause to be prepared a list of all members who are entitled to vote at such election and shall furnish it to the Returning Officer.”

(1B) The ballot paper shall be in the form prescribed in Schedule IV and the Returning Officer shall cause to be prepared in the manner specified in the succeeding sub-rule as many sets of sufficient number of ballot papers as there are classes of persons for whom co-option is to be contested and each ballot paper shall be authenticated by his seal or signatures.”

(1C) The names of duly nominated candidates who have not withdrawn their candidature shall be printed, typed, cyclostyled or legibly written in Hindi in Devnagri Script in the alphabetical order of their names.”

(ii) for the existing sub-rule (2), the following sub-rule shall be substituted, namely:—

“(2) Every member wishing to vote shall be supplied with as many ballot papers as there are classes of persons to be co-opted by election and a mark shall be placed against the name of the member in the list referred to in sub-rule (1A).”

(iii) in sub-rule (3), the words “duly authenticated by seal and signatures of the Returning Officer” shall be omitted.

(iv) in sub-rule (3), for the words “candidates for whom he wishes to vote” the words “as many candidates as there are vacancies to be filled in each class of persons” shall be substituted.



THE RAJASTHAN ZILA PARISHADS (CO-OPTION OF MEMBERS) RULES, 1959

(v) in sub-rule (7), between the words "Count the votes" and "in the presence" the following words shall be inserted, namely:—

— "Separately for each class of persons."

10. in rule 12, for the words "does not bear the official seal and signature prescribed in sub-rule (3) of rule 11", the following words shall be substituted. namely:—

"is a spurious ballot paper".

11. in rule 14, in sub-rule (1), the punctuation full stop occurring in the end shall be omitted and the words and punctuation "and forward them to the Collector." shall be added.

12. Schedule I appended to the rules shall be substituted by the following schedule, namely:—

SCHEDULE I

(Sub-rule 1 of rule 5)

Nomination From for the election of co-opted member of Zila Parishad..... for the class of persons mentioned an clause.....of sub-section 4 of section 42 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959.

1. Description of the class of persons _____
2. Full name of the candidate _____
3. Father's/Husband's name _____
4. Caste (for Scheduled Caste and
Scheduled Tribe only) _____
5. Age _____
6. Sex _____
7. Address _____
8. Full name and address of
the proposer _____

1. Signature of the proposer.

3. Signature of the seconder.

Date.....

Date.....

Place.....

Place.....



THE RAJASTHAN ZILA PARISHADS (CO-OPTION OF MEMBERS) RULES, 1959

Candidate's declaration

I, the above named candidate give my consent to this nomination and hereby declare that I do not hold any of the disqualifications enumerated in section 47 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 and that I am qualified to be a candidate for co-option to the Zila Parishad under the provisions of the said Act.

Date.....

Place.....

Signature of the candidate.

Endorsement by the Returning Officer.

Serial Number.

This nomination paper was presented to me by.....
.....(name) at.....(date and hour).

Date.....

Place.....

Signature of the Returning Officer.

ORDER OF THE RETURNING OFFICER

Accepted/Rejected.

Reasons for rejection.....
.....

Date.....

Place.....

Signature of the Returning Officer.

Received nomination paper of Shri.....for
election as a co-opted member of.....
Zila Parishad, proposer and seconder by (1).....
(2).....respectively which was presented to
me at.....(place) at.....(time).....
this.....day of.....of.....196 , by
Shri.....

Signature of the Returning Officer."



THE RAJASTHAN ZILA PARISHADS (CO-OPTION OF MEMBERS) RULES, 1959

13. Schedule II appended to the rules shall be substituted by the following schedule, namely:—

"SCHEDULE II

(See sub-rule (5) of rule 5

List of candidates proposed for election as
co-opted members of Zila Parishad.

Class of persons under co-option.	S. No.	Name and address of the candidate.	Remarks.
1	2	3	4

Date.....

Place.....

Signature of the Returning Officer."

14. Schedule III appended to the rules shall be substituted by the following:—

"SCHEDULE III

(See rule 7)

List of candidates validly nominated for election
as co-opted members of a Zila Parishad.

Class of persons under co-option	S. No.	Name and description of the candidate.	Address	Remarks.
-------------------------------------	--------	---	---------	----------

Date.....

Place.....

Signature

Return Officer

15. Schedule IV appended to the rules, shall be substituted by the following schedule, namely:—

"SCHEDULE IV

(See sub-rule (2) of Rule 11)

BALLOT PAPER

The class of persons under co-option.....Zila Parishad.....

Signature or Seal of the Returning Officer.

S. No.	Name of the candidate with the name of father or husband and residence.	For Mark (X) by voter.
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

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AMENDMENTS
IN
THE RAJASTHAN PANCHAYAT SAMITIS (CO-OPTION
OF MEMBERS) RULES, 1959.

[Elec. Deptt. Notification No. F. 1 (1) (2) V/Elec./65 dated 21st Dec. 1964 published in Raj. Gaz. part IV-C Extra dated 22nd Dec., 1964.]

In exercise of the powers conferred by sub-section (1) of section 79 read with sub-section (2) of section 8 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959), the State Government hereby makes the following amendments to the Rajasthan Panchayat Samitis (Co-option of Members) Rules, 1959, namely,—

In the said rules—

1. in rule 2,—

(i) in clause (ii) after the word, brackets and figure "clause (i)" the word, brackets and figures "and (ii)" shall be added.

(ii) in clause (iv) for the words "the Sub-Divisional Officer" the words "any other Subordinate gazetted officer authorised by the Collector" shall be substituted.

(iii) after clause (iv), the following new clause shall be added, namely,—

"(iva) "class of persons" means class of persons as specified in sub-section (2) of section 8."

2. in rule 2A,—

(i) in clause (i), between the words "has been issued" and "the Collector", the following words shall be inserted, namely,—

"and on every occasion when a Panchayat Samiti is reconstituted."



(ii) after clause (iv), the following new clause shall be added, namely,—

“(v), The Collector shall send to the Returning Officer a copy of his order made under clause (iv) along with a list of names of Presidents of Gram Sabhas in each unit.”

3. in sub-rule (1) of rule 3, the words figures and brackets “Specified [in clause (i)] of sub-section (1) of Section 8” shall be deleted.

4. in rule 4.—

(i) for the words “Collector etc.” occurring in the heading the words “Returning Officer” shall be substituted.

(ii) for the words and brackets “The Collector or the Additional Collector or the Sub-Divisional Officer [here-in-after referred to as the Returning Officer]” the words “The Returning Officer” shall be substituted.

5. in rule 5,—

(i) in sub-rule (4) for the words “or his proposer or seconder” the words “in person” shall be substituted,

(ii) after sub-rule (4), the following new sub.rules shall be added, and the existing sub-rule (5) shall be renumbered as sub-rule (7), namely,—

“(5) On receiving a nomination paper, the Returning Officer shall satisfy himself that the names and numbers of the voters list of the candidate as entered in the nomination paper are the same as those entered in the voters lists:

Provided that the Returning Officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the voters lists and where necessary, that any clerical or printing error in the entries shall be overlooked.



THE RAJASTHAN PANCHAYAT SAMITIS (CO-OPTION OF MEMBERS) RULES, 1959

(6) Where the candidate is a member of Gram Sabha, a certificate to that effect signed by the President of such Gram Sabha or the Tehsildar of the Tehsil in which the Gramdan village concerned, is situated shall be filed along with his nomination paper.

6. in rule 6,—

(i) in sub-rule (2), after clause (c), the following new clause shall be added, namely,—

“(d) That there has been a failure to comply with the provisions of rule 5.”

(ii) second proviso to sub-rule (2) of rule 6 shall be deleted.

7. in rule 8, for the words “before the commencement of poll” the words “before the hour fixed for commencement of poll” shall be substituted-

8. For the existing sub-rule (1) of rule 9, the following sub-rule shall be substituted, namely,—

“(1) If the number of the candidates for each class of persons is equal to the number of vacancies, the Returning Officer shall declare all such candidates duly elected as co-opted Members:

Provided that where Co-option is to be for the Representatives of Gramdan villages specified in clause (i) (b) of sub-section (2) of section 8 and the number of candidates is equal to the number of vacancies in each unit, the Returning Officer shall declare all such candidates to be duly elected.”



9. in rule 11,—

(i) after sub-rule (1), the following sub-rule shall be added, namely,—

(1a) 'The Collector shall cause to be prepared a list of all the members who are entitled to vote at such co-option and shall furnish it to the Returning Officer. He shall also furnish such other articles to the Returning Officer, as may be necessary for holding such co-option.'

(ii) for existing sub-rule (2), the following sub-rule shall be substituted, namely,—

"(2) The ballot paper shall be in the form prescribed in Schedule IV and the Returning Officer shall cause to be prepared in the manner specified in succeeding rule as many sets of sufficient number of ballot papers as there are classes of persons for which co-option is being held and each such ballot paper shall be authenticated by seal or the signatures of the Returning Officer.'

(iii) after sub-rule (2), the following new sub-rules shall be added, namely,—

"(2a). The names of duly nominated candidates who have not withdrawn their candidature shall be printed, typed, cyclostyled or legibly written in Hindi in Devnagri script on the ballot paper in the alphabetical order of their names.

Provided that in case of representatives of Gramdan villages where election has to be from each unit under clause (i) (b) of sub-section (2) of section 8, names of such candidates from each unit will be written in alphabetical order against that unit.



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“(2b) Every member wishing to vote shall be supplied with as many ballot papers as there are classes of persons to be co-opted and a mark shall be placed against the name of such member in the list referred to in sub-rule (1a).”

(iv) in sub-rule (3) the words “duly authenticated by seal and signatures of the Returning officer” shall be deleted and for the words “Candidates for whom he wishes to vote” the words “as many candidates as there are vacancies to be filled in each class of persons” shall be substituted.

(v) in sub-rule (7) after clause (b), the following new clause shall be added, namely,—

“(c) In case of representatives of Gramdan villages where election has to be from each unit under clause (i)(b) of sub-section (2) of section 8, candidate who obtains the maximum votes in his unit shall be declared to have been co-opted from that unit.”

10. for the existing rule 15, the following rule shall be substituted namely,—

“15. *Filling up of vacancies.*—(1) A casual vacancy occurring in any class of persons shall be filled by co-opting another persons of the same class and the foregoing rules will apply as far as may be:

Provided that meeting for such co-option shall be convened and presided over by the Pradhan or in his absence by the Up-Pradhan, within a month of occurrence of the vacancy failing which the Collector shall, on being apprised of the vacancy and such failure by the Vikas Adhikari convene for the purpose a special meeting of members.



(2) The term of the office of members so co-opted shall be the residue of the term of Panchayat Samiti except in case of a representative of Gramdan village who shall hold office as long as he continues to be a President of the Gram Sabha or the expiry of the term of Panchayat Samiti whichever is earlier.

(3) If the Panchayat Samiti fails to fill up the casual vacancy, the State Government shall fill up the vacancy by nomination under Section 11."

11. for the existing Schedule I appended to the rules, the following Schedule shall be substituted, namely,—

"SCHEDULE I
NOMINATION PAPER
[See sub-rule (1) of rule 5]

Election of Co-opted Member to Panchayat Samiti.....
.....for class of persons mentioned in clause.....
of sub-section (2) of section 8 of the Rajasthan Panchayat Samiti
and Zila Parishads Act, 1959.

1. Description of the class of persons to be co-opted.
2. Full name and address of the Candidate.
3. Father's or Husband's name.
4. Caste or Tribe (In case of Scheduled Caste or Scheduled Tribe Persons).
5. Age.
6. Sex.
7. Description of entry in the voters list:—

- (a) Name of the Panchayat.
- (b) Number of the ward.
- (c) Number of entry.

OR

Name of the Gram Sabha of which he is president and the unit if any in which such Gram Sabha falls.

OR

The name of Gram Sabha of which

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8. Full name and address of the Proposer.
9. Full name and address of the Secunder.
1. Signature of the Proposer. 2. Signature of the Secunder.

Date.

Date.

Place.

Place.

Candidate's declaration.

I, the abovenamed candidate, give my consent to this nomination and hereby declare that I do not hold any of the disqualifications enumerated in section 15 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959, and that I am qualified to be a candidate for co-option to the Panchayat Samiti under the provisions of the said Act.

Date.

Signature of the candidate.

Place.

ENDORSEMENT BY THE RETURNING OFFICER

Serial Number.

This nomination paper was presented to me by.....
(Name) at.....(date and hour).

Date.

Signature of the Returning Officer

Place.

ORDER OF THE RETURNING OFFICER

Accepted/Rejection.....
 rejection.....

Date.

Place.

Received nomination as co-opted member to Panchayat Samiti, proposed by (1)..... and (2)..... to me at.....(this.....day) Shri.....

Date.

Place



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12. for the existing Schedule II, the following Schedule shall be substituted, namely,—

“SCHEDULE II

[See sub rule (7) of rule 5]

List of candidates proposed for election as co-opted members of Panchayat Samiti—

Class of person under co-option	Se. No.	Name and address of the candiate	Remarks
1	2	3	4

Place.
Date.

Signature of the Returning Officer.”

13. For the existing Schedule III, the following Schedule shall be substituted, namely,—

“SCHEDULE III

[See rule 7]

List of candidates validly nominated for elections as co-opted members of a Panchayat Samiti—

Class of person under co-option	Se. No.	Name and description of the candidate	Address	Remarks
1	2	3	4	5
1.				
2.				
3.				
4.				
etc.				

Place.
Date.

Signature of the Returning Officer.”

14. for the existing Schedule IV, the following shall be substituted, namely. —

"SCHEDULE IV
FORM "A"
BALLOT PAPER
[See sub-rule (2) of rule 11]

Panchayat Samiti.....

Seal or signatures of the
Returning Officer.

Name of the candidate

For mark by Voter

FORM "B"
BALLOT PAPER
[See sub-rule (2) of rule 11]

Panchayat Samiti.....

For class of persons under clause 1 (b) of sub-section (2) of section 8.

Signature or seal of the
Returning Officer.

No. or name
of the unit
1

S. No
2

Name of the
candidate
3

For mark by
Voter
4

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5. in rule 10, in sub-rule (3) for the word, brackets and figures "(i) and (ii)" the words, brackets and figures "(i), (ii) and (iii-a)" shall be substituted.

6. in rule 11—

(a) the proviso to sub-rule (2-a) shall be deleted.

(b) in sub-rule 7 between the words "count the votes" and "in the presence" the words "separately for each class of persons" shall be inserted.

(c) clause (c) of sub-rule (7) shall be deleted.

7. in rule 12—

(a) for the words "Voting paper" the words "ballot paper" shall be substituted.

(b) for the words "does not bear the official seal or signatures in sub-rule (2) of rule II" the words "is a spurious ballot paper" shall be substituted.

8. in rule 15, for sub-rule (2) the following sub-rule shall be substituted, namely :—

"(2) The term of the office of members so co-opted shall be the residue of the term of Panchayat Samiti."

9. in schedule I in item 7, the words "or Name of Gram Sabha of which he is the President and the unit, if any, in which such gram sabha falls" shall be deleted.

10. for the existing Schedule IV the following shall be substituted, namely :—

SCHEDULE IV

(See sub-rule (2) of rule 11)

Ballot Paper

Panchayat Samiti.....

Description of Class of persons.....

Seal or Signature of Returning Officer

name of Candidate

For mark (x) by the